

A True and Correct Copy

of the

Trial Testimony of

CLIFFORD OLIVER

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Your Honor.

THE COURT: All right.

MR. BUTLER: Judge, we have nothing further from this witness.

THE COURT: You may step down, Mr. Childers. May this witness be excused?

MR. HUNT: Yes, sir.

THE COURT: You may be excused. Thank you, sir.

MR. BUTLER: Call Clifford Oliver.

THE COURT: Mr. Oliver, just come right around here, sir. You've already been sworn, have you not?

MR. BUTLER: Judge, I don't believe he has been.

THE COURT: Raise your right hand.

(Whereupon the witness was sworn.

Have a seat, sir.

MR. HUNT: Excuse me, Your Honor.

MR. FULLER: Your Honor, could we approach the bench a moment?

THE COURT: Yes, sir.

(Whereupon Counsel for the State and Counsel for the Defendant went into Chambers where the following proceedings were had out of the presence and the hearing of the Jury as follows, (to-wit:

MR. FULLER: Your Honor, as brought out in the

1 pre-trial hearings dealing with the Defendant's Motion to
2 exclude testimony of witnesses whose testimony has been
3 hypnotically enhanced, it came out in the testimony of Bobby
4 Luedke, who's a forensic hypnotist for the Waco Police
5 Department, that one of the witnesses hypnotized in 1982
6 following the lake murders was Clifford Oliver, the witness
7 who has just been called to the stand and sworn to give
8 testimony.

9 At this point, Your Honor, we would, based on the testimony
10 of Bobby Luedke, who indicated that really the only record
11 he had of the hypnosis session was a tape recording of the
12 session itself, we would object to the admissibility of any
13 testimony from this witness on the grounds that his
14 testimony has been hypnotically enhanced. And because of
15 the dangers associated thereto in connection with that, we
16 would like to ask several questions of the witness to see
17 if certain procedural safe guards were followed.

18 THE COURT: Do ya'll have any comment?

19 MR. BUTLER: Judge, I think they would be
20 entitled to have that hearing to ask whatever questions
21 they want to ask. I don't think his testimony is
22 inadmissible.

23 I would state I don't recall Luedke saying he was
24 hypnotized. I recall he had a session with him saying --

25 THE COURT: The record reflects what it says. I

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don't recall what it says. Well, let's do it back here then.

(Whereupon the witness, Clifford Oliver, was brought into Chambers where the following proceedings continued out of the presence of the Jury:

THE COURT: All right, sir. Go ahead.

CLIFFORD OLIVER,

having been duly sworn, testified on his oath out of the presence of the Jury and in Chambers as follows, to-wit:

EXAMINATION

By Mr. Hunt:

Q Clifford, state your name for the record, please.

A Clifford Franklin Oliver.

Q Clifford, you and I have talked before at least on one occasion on the telephone. I believe that it's your testimony -- will be your testimony that you were hypnotized in connection with this matter.

A Yes, sir.

Q And that was by Officer Luedke down at the Waco Police Department; is that correct?

A Yes, sir.

Q I want to ask you some questions about the hypnosis. First of all, did you give a statement to Officer Luedke before you -- before the hypnotic session?

A No, sir.

1 Q Okay. Secondly, who was present during that session?
2 A Myself and Officer Luedke.
3 Q Were there other officers in the room with you/?
4 A No, sir.
5 Q Okay. Thirdly, was that session recorded either on video
6 or audio tape?
7 A I believe it was recorded on audio tape.
8 Q Okay. During the hypnotic session was the tape recorder
9 ever turned off for any reason at all?
10 A Somebody did enter the room.
11 Q Okay.
12 A I don't know if he turned it off or not. But somebody
13 entered the room and interrupted.
14 Q When they entered the room, did they talk at all with
15 Officer Luedke in your presence?
16 A There was a lady that said that he had a message or
17 something. She knocked on the door, and opened it up, and
18 told him something, and went out. It was close to the end
19 of the session.
20 Q And the tape recorder was turned off; he left the room.
21 Was there anybody else present in the room during that
22 time?
23 A No, sir.
24 Q When he came back, did he again turn the tape recorder on?
25 A I don't remember.

4v
1 Q Okay. Then did he finish the session after that, or was
2 the session concluded prior to him leaving the room?
3

4 A It was finished after that person had come and interrupted.
5 It was about the last of the session.

6 Q During this time only the two of you were together in the
7 room; that is correct?

8 A Yes, sir.

9 Q With the tape recorder.

10 MR. HUNT: Your Honor, at this time we would ask
11 that the testimony of Clifford Oliver be excluded based on
12 the fact that the guidelines that have been set in U.S. vs.
13 Valdez have been violated, and that the necessary
14 procedural safeguards for hypnotically enhanced testimony
15 of any witness has not been followed. And we would
16 additionally ask that we be given either the tape recording
17 or a transcription of the tape recording that was done
18 during that hypnotic session.

19 MR. BUTLER: Judge, I think I ought to be
20 entitled to ask him a few questions before he --

21 THE COURT: Yes, sir.

22 -----
23 EXAMINATION

24 By Mr. Butler:

25 Q Mr. Oliver, you said you did not give a statement to Det.
Luedke before the session; is that correct?

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A No, sir. I don't think so.

Q All right. But you had given statements before that, had you not?

A Yes, sir.

Q You gave one to the Naval Intelligence Investigators, didn't you?

A Yes.

Q And, furthermore, you had already testified under oath before the grand jury, hadn't you?

A Yes, sir.

Q All right. Now, during that session do you know whether or not you were actually under the hypnosis, or whether or not you were hypnotized?

A Not really. I don't know what it's like to be hypnotized.

Q Did you notice anything unusual while you were there talking with Detective Luedke?

A (shaking head.)

Q You aware of what was going on at all times?

A Yes, sir.

Q You were aware when somebody else came into the room?

A Yes, sir.

Q You remember what they talked to him about; they told him he had a message, and he then left the room?

A Yes, sir.

Q At any time during the session with Detective Luedke did he

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suggest any answers to you?

A Not to my recollection.

Q Did he ever do anything but ask questions?

A No.

Q Did he ever in any way suggest to you that your answers should be this or should be that?

A No.

Q Did he at any time refer to any statements that you had given previously, or did he just ask questions regarding your memory of events in the past?

A As far as I can recollect, he just asked me to remember what was going on at that time.

Q And this was after your testimony in grand jury, was it not?

A Yes, sir.

Q As a result of that session, did you recall anything that you had not only previously remembered?

A (shaking head.)

Q Did you come up with any new evidence? Was there anything at all added to your memory as a result of that?

A Not to my recollection.

Q And would your testimony be today as it was in the recorded statement that you gave to the Naval Intelligence Officer?

A (nodding head.)

Q And the same as you testified in grand jury?

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A (nodding head.)

Q There has been no change in it, has there?

A No.

MR. BUTLER: That's all we would have, Judge.

THE COURT: Any other questions?

MR. HUNT: No. We don't have any other questions, Your Honor.

THE COURT: All right. Any other objections?

MR. HUNT: No, Your Honor.

THE COURT: What were you requesting?

MR. HUNT: At this time we're requesting that his testimony be completely excluded, and anything that has to do with any of the questions that were asked during the hypnotic session; and secondly, we're asking for either the tape recording itself that was made during that hypnotic session, or or a transcription of that tape recording.

THE COURT: All right. Now, I overrule the objection to the testimony. I will allow you to listen to the tape recorded interview.

MR. BUTLER: Have you not heard that tape recorded interview at all?

MR. HUNT: Of course not. Where would we get it?

THE COURT: Do you have it?

MR. BUTLER: Judge, is that one of the ones that we -- Judge, there was one that I made him aware of that

1
2 may or may not be included at the time. I don't know if it
3 was Clifford Oliver's, or who it was. There were many that
4 we gave to Mr. Bowen. There was one --

5 THE COURT: Can you check? Do you have any way
6 of checking?

7 MR. BOWEN: I could check.

8 MR. BUTLER: Could you see if that's one of the
9 ones -- I do not recall. I did not personally make those.

10 MR. HUNT: While Morris is still in the room and
11 still on the record, I'm also going to be requesting a copy
12 of the testimony of this witness given before the grand
13 jury after he testifies on direct. So you might should
14 resolve that too.

15 THE COURT: All right. Ya'll have any comment?

16 MR. BUTLER: I don't have any comment.

17 THE COURT: All right. You need to look that
18 testimony up, if you have got it. I don't know if it's
19 transcribed. Was it?

20 MR. BOWEN: Right.

21 THE COURT: It is transcribed?

22 MR. BOWEN: Yes.

23 THE COURT: All right.

24 MR. BUTLER: I might have one they can look at,
25 if the Judge rules --

THE COURT: Yeah.

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MR. BUTLER: After he testifies.

THE COURT: If you will go and look up that tape and see if he's got it. And then why don't he let him listen to it now while we're recessed. Does it play on this kind of recorder? I don't know. I mean, do you know?

MR. BUTLER: I don't know if they've got it.

THE COURT: Okay. Let me -- he'll look it up and see.

(Whereupon Court stood at ease momentarily.)

THE COURT: All right. Now, just a few minutes ago we had recessed. The defense had made a motion that they receive a copy of that last witness, Oliver, tape recorded session with Bobby Luedke wherein it was alleged that he was under hypnosis or being hypnotized. It's my understanding from talking to Mr. Butler that there is no tape recording of that. Is that right?

MR. BUTLER: That is my understanding, Your Honor. I have searched our files. I found none. I checked with Bobby Luedke, who is now present and willing to testify, ready to be sworn. He told me -- Well, rather than go into that, we'll just have him sworn and let him testify.

THE COURT: Raise your right hand.

(Whereupon the witness was sworn.)

1 would, try to keep your voice up as loud as you can to be
2 sure that they can hear you. If you start dropping
3 off, I'm going to remind you about it.
4 A Yes, sir.
5 Q Where do you live, Mr. Oliver?
6 A Right now I live in New Orleans, Louisiana stationed in a
7 Naval Air Station.
8 Q And how are you employed?
9 A United States Navy.
10 Q How long have you been in the Navy?
11 A Two years active duty, or about a year and a half active
12 duty.
13 Q What is your duty or job with the Navy?
14 A Aircraft mechanic, hydraulics.
15 Q Back in the summer of 1965
16 A I lived at 3316 Ethe ay
17 Street, 3704 Hay is v
18 Q Are both of those add
19 A Yes.
20 Q Are you acquainted wit
21 A Yes, sir. I am.
22 Q Is he in the courtroom
23 A Yes, he is.
24 Q Would you identify him, please.
25 A (indicating.) He's right there..

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1 would, try to keep your voice up as loud as you can to be
2 sure that they can hear you. If you start dropping
3 off, I'm going to remind you about it.

4 A Yes, sir.

5 Q Where do you live, Mr. Oliver?

6 A Right now I live in New Orleans, Louisiana stationed in a
7 Naval Air Station.

8 Q And how are you employed?

9 A United States Navy.

10 Q How long have you been in the Navy?

11 A Two years active duty, or about a year and a half active
12 duty.

13 Q What is your duty or job with the Navy?

14 A Aircraft mechanic, hydraulics.

15 Q Back in the summer of 1982 where do you live?

16 A I lived at 3316 Ethel. And I lived it was -- on Hay
17 Street, 3704 Hay is when I was with my wife.

18 Q Are both of those addresses here in Waco?

19 A Yes.

20 Q Are you acquainted with a man named David Spence?

21 A Yes, sir. I am.

22 Q Is he in the courtroom today?

23 A Yes, he is.

24 Q Would you identify him, please.

25 A (indicating.) He's right there..

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Q Would you describe what he is wearing, please.

A He's wearing a blue shirt, blue tie, and grey jacket.

MR. BUTLER: Your Honor, may the record reflect that the witness has identified the defendant?

THE COURT: The record will so reflect.

Q Directing your attention back to the 13th day of July, 1982, did you have an occasion on that day to go to Pinochio's Gameroom?

A Yes, I did.

Q What time of the day or night did you go there, if you recall?

A Approximately 7:30, 8:00. Somewhere around there.

Q Are you talking about in the morning or evening?

A Evening.

Q Did you go by yourself, or did you go with someone?

A When I went, I went by myself.

Q All right. When you got there, did you have occasion to see anybody that you knew?

A I believe I ran into Cal Frazier there.

Q All right. What did you and Cal do there at the gameroom?

A Waited around there for awhile. There was nothing going on. So we decided to go down to Little Circle at Midway Park.

Q Did anyone else go with you?

A Not at that time.

1 Q What happened then?
2
3 A Got down to Midway Park, and there was two friends of ours
4 down there, Todd Childers, Arnett. And they had some beer,
5 so we sat there and drank some beer with them.
6 Q Approximately what time of day or night did you get there,
7 if you recall?
8 A 8:30, 9:00 probably. Somewhere around in there.
9 Q Okay. If you would, look at that map over there and
10 indicate for the jury where that location is, if you can
11 find it.
12 A I'm lost.
13 Q All right. Do you see there in the lower left hand corner
14 of the map the twin bridges going across there at Highway
15 six?
16 A Yeah. Okay.
17 Q From there can you find where you were in Midway Park? If
18 it will help, go over closer and look at this.
19 A That's the store, right?
20 Q Yes, sir.
21 A Okay.
22 Q It might help if you pull that blue pin out, maybe you
23 could see.
24 A That's probably it.
25 Q Does that appear to be the location of the circle where you
parked your car?

1 A Yes.

2 Q If you would, just replace that pin. That pin kind of

3 covered it up.

4 What vehicle were you in when you went down to that circle?

5 A I was in my Ventura. It's a Pontiac.

6 Q What year model?

7 A '77.

8 Q And what vehicle were the other two boys in?

9 A They were in a truck. I think a Dodge or something like

10 that. I don't remember.

11 Q Do you remember what color it was?

12 A No, I don't.

13 Q Now, how long had you known Cal Frazier?

14 A I would say about a year and a half, a year.

15 Q How about the other two boys? How well did you know them?

16 A Not as well as I knew Cal. I knew them as acquaintances

17 more than friends. I just had met them around Pinochio's

18 and seen them around Pinochio's, things like that.

19 Q How long did you stay at that location there in Midway

20 Park?

21 A Probably about an hour, hour and a half. Somewhere around

22 there.

23 Q All right. And you said that you got there at

24 approximately 9:00 or 9:30?

25 A Yes, sir.

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Q So somewhere around 10:30 or 11:00 did you have an occasion to leave that location?

A Yes, sir.

Q Where did you go from there?

A From there we rode around Valley Mills for a little while. Then we went out to Koehne Park.

Q Now, were you still in your car?

A No. We were in the truck now. My car was left there.

Q You left your car at Midway Park?

A Yes.

Q Why did you do that?

A They said, "Let's go in the truck. We'll just all pile in the truck." So I said okay, and left my car.

Q Where were you riding in the pick-up?

A At that time we were all three in the front.

Q You say all three. How many people were with you?

A It was me and Arnett -- No. There was Cal too. Yeah. I think me and Cal were in the back, and Arnett and Todd were up front. Yeah. That's what it was.

Q And you went -- after you went on Valley Mills, where did you go?

A Went to Koehne Park after we went there.

Q And after going into the entrance of Koehne Park, where did you go, if you remember?

A Went over to the right down to the beach area. Down around

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Q Did anything happen unusual at that time?

A No.

Q Was anyone else there?

A There was a truck there down about half way down the beach. And we went down there and talked to them.

Q Did you know those people?

A No. I had never seen them.

Q Who were they, or can you describe them for the jury, if you can remember?

A I don't really remember. I just -- there was about four or five people.

Q What had you been doing that day prior to going to Pinochio's?

A Probably drinking. I don't remember.

Q And how much beer did the two boys that you met at Midway have? Do you remember?

A Probably a couple of six-packs. I don't remember.

Q So if you left Midway at about 10:30 30, 11:00, and then drove around on Valley Mills for a little while, at that time how much beer had you had to drink? Do you know?

A By the time we got to Koehne?

Q By the time you got to Koehne Park.

A Probably, myself, probably I would say a six-pack and a half. Something like that. A six pack.

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Q Now, you're going to have to keep your voice up so everybody can hear you.

A A six-pack or so probably.

Q Now, what happened when you talked to the people that were near that pick-up truck down in the graveled area?

A Well, we asked them if they had a joint, if they wanted to trade a joint, for some beer. So we traded a beer for a joint.

Q What do you mean by a "joint"?

A Marijuana cigarette.

Q How much beer did you trade them for a joint?

A A couple of beers, I think. I'm not sure.

Q What did you do with that marijuana cigarette?

A Smoked it.

Q Did you smoke it yourself?

A We all smoked it.

Q You all four shared it?

A Yes.

Q Where were you when you smoked that cigarette?

A I don't recall.

Q Were you still in Koehne Park?

A I think so, but I'm not sure.

Q Did you have occasion to go anywhere else in Koehne Park other than that graveled area?

A No, I don't believe so. Not that I know of.

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I remember -- we may have went down to the circle, but I'm not sure. I can't remember.

Q Did you notice anything unusual at all at that time?

A No. I wasn't looking for anything unusual.

Q What did you then do, if anything?

A There wasn't much going on there, so we decided to leave and go get some more beer.

Q And where did you go to get the beer?

A We went to the 7-11 on Valley Mills and, I think -- is it Wooded Acres? I'm not sure. The one right by Skagg's Alpha Beta. We went there.

Q Would that be the one on Valley Mills and Cobbs?

A Yeah. I believe it is.

Q Did you in fact buy beer there?

A It was after hours; they wouldn't sell it to us. So --

Q So what did you do?

A We decided to go try somewhere else. We thought that the guy that was working there would be there, and he would sell us beer because we had bought it there before occasionally. He wasn't there, so we decided we would go to another place that somebody else new of. I don't recall who suggested it. But we decided to go -- well, from there we went to the 7-11 on Waco Drive.

Q The 7-11 on Waco Drive. Would that be the one across the street from Cox's?

1 A Yes.

2 Q All right. Did you try to buy beer there?

3 A Yes.

4 Q Were you able to do so?

5 A No.

6 Q Where did you go from there?

7 A We left there and went to the Zippy's. That's when

8 somebody suggested we go to the Zippy's because they knew

9 somebody there.

10 Q Which Zippy's?

11 A The one on 25th and I believe Gorman. I'm not sure of the

12 side street.

13 Q All right. And were you in fact able to buy beer there?

14 A Yes.

15 Q Who bought it?

16 A Arnett did, I believe.

17 Q Was he able to go right in and buy it, or did it take some

18 time?

19 A We had to deliberate with him for a while to get him to do

20 it.

21 Q Do you know how much beer he bought?

22 A I think it was two six-packs, but I'm not positive.

23 Q At this time it was still you, Arnett, Todd Childers, and

24 Cal Frazier; is that correct?

25 A Correct.

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Q Now, approximately what time was it at the time you were able to purchase the beer?

A Probably 12:30, 12:45, somewhere around there.

Q Where did you go from there?

A From there we decided that -- Cal wanted to go by his girlfriend's house, which lives on the side street of where this Zippy's was. So we drove down there to stop by her house to see if she was home.

Q What time of the day or night -- what time at the time that you reached her house was it, if you know?

A It takes about probably ten minutes, if that long. Probably five minutes to get there. So it was still about 12:45.

Q What did you do when you got there?

A We got out, went to the door, knocked on the door. Nobody was home.

Q Did all four of you go to the door?

A Just me and Cal, I believe.

Q How long did you remain there?

A Just a few minutes because nobody was there. So we got back in the truck.

Q What did you do then?

A Then we were trying to figure out what to do. So I said let's go by David's, you know, a friend of mine, and see what he's doing.

1 Q By "David" who were you referring to?
2
3 A David Spence.
4
5 Q The defendant in this case whom you've already identified?
6
7 A Yes.
8
9 Q How long had you known David Spence at this time?
10
11 A Since I was about 15, 14.
12
13 Q Had you been friends with him and running around with him
14 continuously since that time?
15
16 A When I was younger we ran around a lot together. I went to
17 California. I hadn't seen him in probably four or five
18 years.
19
20 Q All right. How long -- How many times had you seen him
21 recently before this night of July the 13th?
22
23 A Probably five or six times.
24
25 Q Over what period of time?
26
27 A Over about five months, I guess. Somewhere around there.
28
29 Q All right. Did you go to his house?
30
31 A Yes.
32
33 Q And where was that located?
34
35 A It was on 15th Street. His mother's house is on 15th and
36 -- right off Colcord. I don't remember what street.
37
38 Q Remember to keep your voice up so everybody can hear you.
39
40 A Okay.
41
42 Q What happened when you got to his mother's house?
43
44 A Well, I knocked on the door. And Steve came to the door,

1 said that David wasn't there, that he had got an apartment.
2
3 Q Who is Steve?
4 A Steve is David's brother.
5 Q All right.
6 A And said that he had an apartment out at Northwood
7 Apartments, and told me the apartment number. And so we
8 decided to go out there.
9 Q And where was Northwood Apartments in relation to David's
10 house? How did you get there?
11 A We went down to Colcord, turned left on Colcord, and went
12 down 18th Street straight out to there by the college.
13 Q About how long did it take you to get there, if you know?
14 A 15 minutes. Ten minutes.
15 Q And what, if anything, did you do when you arrived?
16 A Well, we got there, and parked the car, and went up to the
17 door, and knocked on the door.
18 Q Who all went to the door?
19 A Everybody did, I think.
20 Q Were the lights on or off when you went to the apartment?
21 A They were off.
22 Q And who knocked on the door?
23 A I did.
24 Q What happened then?
25 A Well, there is a little, you know -- took a little while,
 and then David came to the door.

1 Q Do you recall how he was dressed when he came to the door?
2 A Not clearly. I think he was -- I think he had his shirt
3 off, and was either in pants or shorts, or something like
4 that.
5 Q What happened then?
6 A I asked him "what have you been doing," or "how you been
7 doing," or something like that. We went inside.
8 Q Do you recall what he replied to you at that time?
9 A Clearly, no. I think he might have said something about
10 Tony, but I don't know for sure.
11 Q Okay. Did he say anything about where he had been, or do
12 you remember?
13 A Clearly, no.
14 Q All right. What then happened?
15 A We went inside and sat there and drank some beer. I don't
16 remember a whole lot. We just sat there and drank beer and
17 talked.
18 Q Was he alone in the apartment?
19 A No. Christi was there too.
20 Q Who's Christi?
21 A That was his girlfriend at the time.
22 Q Did she come out and drink beer with you?
23 A No. She was in bed. I think she peeked out, and then went
24 back to bed.
25 Q How long did you stay there at the apartment with David

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Spence?

A I think we stayed there the whole night, but I think maybe we went out to get some beer or something like that. I don't remember.

Q What did you do after it got daylight, if anything?

A After the sun came up, we went outside and we made a phone call. And we were going to try to make some --

Q Who was it that made the phone call?

A David.

Q What phone did he use?

A Pay phone by the swimming pool.

Q After making the phone call, did ya'll have an occasion to go somewhere?

A Yeah. After that, we were going to go to Fort Worth.

Q Well, I'm asking you, though, did you go anywhere in Waco after making the phone call?

A Well, after the phone call, that's when the security guard told us to move the truck. So we decided then we had -- well, we had to take Christi to work, so --

Q Where was Christi working at that time, if you know?

A She was working at the Rainbow Drive-in.

Q Where is that located?

A Over by Cameron Park. It's on Homan, or something like that.

Q Did you in fact take her to work?

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A Yes.

Q Did she ride in the pick-up with you?

A No. She rode with David.

Q She rode with David. How did David get there?

A In a green or gold Malibu. It was a Malibu.

Q What, if anything, did you do with that car at that time?

A Dropped it off to have some work done it, or something.

Q Do you know what was wrong with it?

A I think brakes. I don't remember.

Q Did you in fact take Christi to that store?

A Yes.

Q Did you purchase anything while you were at the store?

A We got some beer.

Q Who bought it?

A David.

Q How much beer did he get, if you remember?

A A couple of cases, I think. Two cases.

Q Where did you go from there?

A Well, from there we decided against going to Fort Worth. And I want to go pick up my car. So Todd, you know, said he needed to get home, I think.

Q Did he take you to Midway Park to get your car?

A Yes, sir.

Q And at this time it was you, Cal, Arnett, Todd Childers, and David Spence.

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A Correct.

Q What, if anything, happened when you got out to Midway Park where you left your car?

A We got there, and I couldn't find my car. I thought somebody stole it. I got there, and it was gone.

Q What, if anything, did you do?

A Well, I went to -- we decided to go use the phone. And Todd said I could use his phone to call the police to find out, you know, to turn it in as stolen because I thought somebody had stolen it because I left my keys in it.

Q You left your keys in your car?

A Yes.

Q And did you go use the phone at his house?

A Yes. We stopped by the Dairy Queen, and we dropped off Cal and David.

Q What Dairy Queen?

A The one down right by Todd Childers' house. I don't know the name of the street there.

Q Would that be Estates?

A Yes. I think so.

Q What was your reason to dropping off David Spence and Cal Frazier?

A He didn't want too many people coming up to the house.

Q And what happened after you got to Todd's house?

A We got there, and Todd told his mother that I needed to use

1 the phone to call in my car. She said it was okay. So I
2 called in, and the police department told me that they had
3 my car, that it had been vandalized, and that it was at the
4 impoundment.

5 Q Did they tell you what you had to do to get your car?

6 A They told me I had to come down to the police station and
7 pay for the thing or, yeah, pay for it and get a slip.

8 Q Did you do that?

9 A Yes. I did.

10 Q Did -- what happened to Cal and David Spence?

11 A We went back and picked them up on our way back out.

12 Q You did go to the police station?

13 A Yes.

14 Q You did pay whatever charges you needed to pay to get your
15 car?

16 A Yes.

17 Q Where was your car located?

18 A It was at the impoundment of James Wrecker Service.

19 Q Where is that?

20 A It's over across LaSalle on 18th and LaSalle.

21 Q After you left the police station did you go there?

22 A Yes, sir.

23 Q And did you in fact get your car?

24 A Yes.

25 Q Was your car in the same condition as when you had left it

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at Midway?

A No. The windows were busted out, the side windows. The stereo was ripped out of the dash. Part of the dash was ripped out, and it was messed up.

Q Were any of your belongings gone?

A Yeah. I had power tools in there and all kinds of things. Everything was cleared out of my trunk. Everything that was of value was gone.

Q Was your car still in running condition?

A Yeah. It was still running.

Q Were you able to drive it?

A Correct.

Q Okay. What did ya'll do then?

A We -- from that time, Cal, and me, and David got in my car. Arnett and Todd went ahead and got in the truck and left to go home.

Q What time of morning was it when you got your car, if you know?

A Probably about nine or 9:30. Somewhere around there.

Q What happened to the beer?

A We put it in the car with us.

Q You were still drinking at this time?

A Yes, sir.

Q Cans or bottles?

A Cans.

1 Q Do you know what kind of beer it was?
2 A Budweiser.
3 Q Where did you then go, if you know?
4 A From there we drove down Valley Mills. And then we went to
5 Koehne to a picnic table to drink a beer.
6 Q You went to Koehne Park?
7 A Yes.
8 Q Specifically where in Koehne Park did you go?
9 A It is a little circle.
10 Q If you would, indicate to the jury on that map where in
11 Koehne Park that little circle is where you went.
12 A Is this Valley Mills?
13 Q Uh-huh.
14 A Here it is. Yeah. Right here. (indicating.)
15 Q Would it be there? Is that the area indicated by that red
16 pin?
17 A Right.
18 Q Do you know whose idea it was to go to Koehne Park?
19 A I can't remember exactly, no.
20 Q Have you ever been to Koehne Park early in the morning?
21 A No, sir, not before this.
22 Q Did you ever go to Koehne Park often at all?
23 A Not often. Every now and then I would go down to see if
24 anybody was partying.
25 Q When you went to Koehne Park, what area do you usually go

1 to?

2 A Generally I go to just as you go over the turn into there,
3 right off to the right, right there is generally where I
4 go.

5 Q Had you ever gone down there to that little circle before
6 to stop and drink beer?

7 A Maybe once. That's about it. Not very often.

8 Q It wasn't something that you usually did, was it?

9 A No.

10 Q DO you know whose idea it was to go down to that little
11 circle area that morning?

12 A I can't -- I can't remember.

13 Q All right. When you got there, did you notice any other
14 vehicles parked at that location?

15 A I noticed a little car in front of us. And our attraction
16 was -- we were attentive to it because the seat was up.
17 That's why my attention was drawn to it.

18 Q Do you know what kind of car it was?

19 A It was a Pinto.

20 Q Do you know what color it was?

21 A Orange.

22 Q And where in relation to that orange Pinto did you park
23 your car?

24 A Sort of behind it.

25 Q Would it have been behind it and to the right, or behind it

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and to the left, or directly behind it?

A I would say behind it and to the right.

Q And how far from the car did you park?

A Probably ten, 15 feet.

Q All right. You were driving?

A Yes.

Q Were all of you sitting in the front seat?

A No. I think me and David were up front, and Cal was in the back.

Q Is your car a two door or four door?

A Two door.

Q What happened when you got there and parked?

A Got out, got the beer, walked over to the picnic table.

Q Where was the picnic table in relation to where you parked your car?

A It was across the circle, just -- we were here. The picnic table was right there.

Q So you parked on the right side of the circle and walked all the way across the circle down to the picnic table?

A Right.

Q Was there a picnic table close to your car?

A I don't recall.

Q Did you go by any other picnic tables, or did you just go to the closest one?

A No. We just went to that one. I think there was one back

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there was to do at that time of morning. That's all I can remember.

Q And how many beers did you drink while you were there?

A Probably two or three beers.

Q What did you do after you got through drinking those beers there at the little circle?

A We left and went back up Valley Mills. And we were headed back towards -- back towards David's. And we ran into somebody on Waco Drive, a girl that was driving by.

Q When you say you ran into her, do you mean you had a wreck?

A No. We were driving by and she was talking to David. David was talking to her. And she said --

Q Was it somebody that he knew?

A No. Somebody that he just picked up on driving down Waco Drive.

Q What do you mean by "picked up on?"

A He was flirting with her.

Q Explain to the jury what you mean by flirting with everybody.

A He was just -- I don't know. He yelled something at her. And she yelled something at him. Then she said come on over to this place where she worked to drink some beers. We asked her if she wanted to drink some beers.

Q Did you in fact go there?

A Yes.

1 Q Where was it?
2 A Between 25th and 18th, I believe, on Waco Drive.
3 Q What kind of place of business was it?
4 A It was some sort of data processing, not microfilm. They
5 had these big computer reels. I don't know what exactly.
6 Q Did you know the girl?
7 A No.
8 Q Did Cal know the girl?
9 A No.
10 Q And you already said it wasn't anybody that David Spence
11 knew.
12 A No.
13 Q How long did you stay there?
14 A Probably an hour and a half; maybe two hours. Something
15 like that.
16 Q What were you doing while you were there?
17 A Drinking beer, talking to her. That's about it. Sitting
18 around.
19 Q Were there customers coming in?
20 A No. There was one guy came in to deliver a car. There was
21 a guy there that worked there, but he was in and out. I
22 think he went somewhere or something.
23 The guy that came to deliver the car, I knew him from when
24 my wife used to work at Maynard-Phillips. He brought a car
25 and said hello to me. That's about the only people that

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were around besides us.

Q All right. Then what happened?

A Well, David had made plans that he was going to go out with her later on that night. And we decided we were going to go clean up, get ready to go out again later. So I took David over to clean up and get dressed and all that; and took Cal home; and then I went home.

Q Did you see David Spence anymore that day?

A I don't recall. I don't think so. I don't think I went back that night.

MR. BUTLER: We pass the witness, Your Honor.

MR. HUNT: Your Honor, we would like to see the grand jury testimony before we start asking questions. And I wonder if we might have a minute to get through that. And if it is convenient with the Court, we would like to perhaps take a lunch break and resume after that.

THE COURT: Ladies and gentlemen, we just as well recess. It's ten minutes until 12. We'll stand recessed until 1:30.

If everybody else will remain seated and let the jury clear the courtroom.

(Whereupon the noon recess was had.)

THE COURT: All right. Go ahead.

MR. HUNT: Thank you, Your Honor.

CROSS-EXAMINATION

1 By Mr. Hunt:

2 Q Clifford, you and I have talked briefly on two or three
3 different occasions. And I am going to ask you some
4 questions now, and I will try to keep it brief. But I
5 won't promise that. Okay?

6 A Yes, sir.

7 Q I'll ask you to do the same thing you did for the State.
8 Answer loudly enough so everybody in the jury can hear what
9 you have to say. Try to relax. I'll do the same thing.
10 And we'll just let the jury know everything we can. Okay?

11 A Yes, sir.

12 Q Good. Okay. I've got some questions first of all that I
13 need to ask you about the evening of July the 13th of 1982,
14 and the following morning.

15 First thing is, best you can estimate, what time did you
16 leave Midway Park after you had been drinking there at
17 Midway Park? And, again, I'm just asking for an estimate,
18 Clifford.

19 A I would say around 11.

20 Q Okay. And approximately what time did you arrive at Koehne
21 Park?

22 A Between 11 and 11:30.

23 Q Okay. And about how long did ya'll stay at Koehne Park?

24 A Maybe 20, 30 minutes.

25 Q Okay. There was a question about when ya'll went down and

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found the Mexican folks that had some marijuana, and you got some marijuana from them.

A Correct.

Q Would it be fair to characterize them as rowdy? How would you characterize them?

A They weren't really rowdy. They were just sitting there.

Q Just sitting around having a good time. Okay. Was there any particular reason ya'll went to Koehne Park that night? Now, again, I'm talking about the first time you went when you went to Koehne Park on the evening of the 13th.

A Just to see if anybody was still partying. That's the only reason. Because usually sometimes there is a party out there.

Q It wasn't unusual for teen-agers to go to Koehne Park or Midway Park at that time, was it?

A Was it unusual?

Q Yes.

A No, it wasn't unusual.

Q Kind of the usual thing to do during the summer?

A Correct.

Q Now, you went over to David's house. You knocked at the door. David came to the door.

Did it appear to you that you had awakened David?

A Yes.

Q Now, in your conversation with David there at David's

1
2 apartment, did David say anything at all that indicated to
3 you that he might be involved with the lake murders or had
4 killed somebody, or anything like that?

5 A I wasn't -- there wasn't anything said about it when I was
6 there because I didn't know anything about it. I wasn't
7 looking for anything out of the ordinary in the first
8 place.

9 Q And there wasn't anything out of the ordinary said by
10 David; is that correct?

11 A Not that I recall.

12 Q Certainly if he would have said to you, "Hey, I was out at
13 the lake last night and killed three kids," that would
14 appear to you to be out of the ordinary?

15 A Yes, sir.

16 Q While you were there in his apartment, I assume that since
17 you were there for several hours, you had a chance to look
18 around the apartment, you know -- I'm not saying snooping.
19 I'm just saying see everything that's in the apartment; is
20 that correct?

21 A Correct.

22 Q During the time that you were in David's apartment there at
23 the Northwood, did you see anything that would indicate to
24 you that David had been involved in the lake murders? And
25 by anything, I mean anything, for instance -- specifically,
did you see items like blood soaked clothes?

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A No.

Q Did you see traces of blood on the furniture, or on the carpet, or in the bathroom?

A No.

Q I think that during the time that you were there, quite understandably, you used the bathroom at least once; is that correct?

A Correct.

Q When you went in the bathroom, did you see any kinds of signs of blood in the basin, or on the mirror, or on towels, or anything like that?

A Not to my recollection.

Q Was there anything at all that you saw or heard that evening that indicated to you in any way that David Spence was related to the lake murders?

A No.

Q Okay. The next morning I think that your testimony is that ya'll left and followed David as David took his car someplace to get the car fixed; is that correct?

A Correct.

Q At that time David was driving a gold two door Chevy Malibu; is that correct?

A True.

Q And I think your testimony was there was something wrong apparently with the brakes as best you can recall?

1 A Yes, sir.
2
3 Q Obviously nothing that would keep him from driving the car
4 because you followed him as he drove the car?
5 A Correct.
6 Q Was David's car parked there at the Northwood Apartments,
7 or did you have to go someplace to get David's car in order
8 to take it to get it repaired?
9 A It was parked there.
10 Q Okay. You followed David as he took the car to get it
11 repaired, you think someplace very close to the Rainbow; is
12 that correct?
13 A True.
14 Q Okay. Left it at some individual's house, and he said,
15 what? That the car would be ready that day sometime?
16 A I believe he said in the afternoon.
17 Q Okay. Did David say anything unusual to the man, like did
18 he say, "Better watch out; you might get blood on yourself
19 because it's covered with blood," or anything like that?
20 A No.
21 Q Did he appear to be secretive at all about his car?
22 A No.
23 Q Did you observe at least the outside of the car?
24 A Yes.
25 Q Did you see it covered with blood, or "spattered with blood,
or blood on the handles, or anything like that?

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A No.

Q Then I think ya'll got some beer there at the Rainbow?

A Correct.

Q Christi worked at the Rainbow, right?

A Correct.

Q Do you recall whether or not David got the beer and put it on Christ's tab?

A Yes.

Q He did put it on her tab.

A Uh-huh.

Q I suppose that didn't make her real happy.

A Correct.

Q And they had a little fight about it.

A Yes.

Q Then after that ya'll went to try to get your car straightened out thinking at that time at least at first that your car was still at Midway Park; is that correct?

A Yes.

Q Now, you said when you left your car, you left the keys in it. Did you leave it locked with the keys in it accidentally locking your keys in it?

A Yes.

Q You didn't intentionally leave it there open with the keys in it?

A No. I didn't know I left the keys in it until I found out

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they got in the trunk and everything else.

Q Okay. Ya'll went out to Midway Park and found out that in fact your car had been vandalized; called the police; went down to the pound and got your car; is that correct?

A Correct.

Q So your car was still driveable?

A Yes.

Q Okay. Then you and David and someone else went and, using the beer that you had gotten at the Rainbow, just decided to go driving, and you were driving the vehicle; is that correct?

A Yes.

Q And I believe your testimony was you don't know why you went to Koehne Park, you just wound up at Koehne Park; is that correct?

A True.

Q Had you ever before been to Koehne Park with David Spence?

A To my recollection, no.

Q Do you know if David Spence had ever been at Koehne Park before then?

A I don't know.

Q Have you ever been at Speegleville Park with David Spence?

A No.

Q Okay. Now, after ya'll got to Koehne Park, you parked your car. Did David while --

1 First of all, from the time that you left the apartment
2 until the time you got to Koehne Park, did David Spence say
3 anything at all unusual that would indicate to you that he
4 was in any way connected with the lake murders or the
5 murders of the teen-agers?
6

7 A Not to my recollection.

8 Q Okay. Didn't say, "Hey, I killed three kids last night.
9 It sure was fun," or anything like that?

10 A No.

11 Q That would stand out in your mind; is that correct?

12 A Sure.

13 Q You got to Koehne Park, and parked your car there at the
14 circle. Then you went to a picnic table. Can you remember
15 who selected the particular picnic table, or did you just
16 walk over to a picnic table?

17 A I can't -- I can't recall why we went to that particular
18 one. It was suggested. I don't know who suggested it. I
19 don't know. We just went there.

20 Q Okay. Was it the picnic table closest to the water? Was
21 it the one with the best view? Or does anything stand out
22 about it?

23 A It had a canopy over it.

24 Q I'm sorry.

25 A I believe it had a canopy over it. And it was over towards
the water.

1 Q Closest to the water perhaps? Or do you remember?
2 A I don't recall.
3 Q Okay. Did you see anything sinister about the way David
4 Spence said, "Let's go to the picnic table."? Did he say,
5 "Let's creep over here to the picnic table," or anything
6 like that?
7 A No.
8 Q Ya'll just went there to drink, and saw a picnic table, and
9 sat at the picnic table; is that correct?
10 A Yes.
11 Q While you were there, you were drinking beer. During the
12 time that you were there, did David say anything at all, or
13 in any way indicate to you that he was in any way connected
14 with the lake murders?
15 A No.
16 Q Didn't point across at Speegleville Park and say, "Hey, I
17 dumped three bodies over there last night," or anything
18 like that?
19 A No.
20 Q Something like that would stand out in your mind; is that a
21 fair statement?
22 A Yes.
23 Q And he didn't say anything like that?
24 A No. I wasn't looking for anything out of the ordinary.
25 Q Certainly.

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A It was just a regular night, so I really don't recall what was said exactly anyway. But something like that would stand out.

Q Certainly if he would have said something like that, it would stand out in your mind within a few days as soon as you found out about the lake murders; does that sound fair?

A Yes, sir.

Q Did anything stand out in your mind within a few days after that about David and your conversation with him?

A No.

Q Ya'll drank beer; then you left there, and you went out and started down toward Waco Drive, if I remember correctly, on Valley Mills; is that correct?

A Yes, sir.

Q During that time you came across the girl in the car. Do you remember if David was the only one that was hollering, or was she hollering, or were all of you hollering at each other, best you can recall?

A David was on the passenger side. He was yelling out the window. She was yelling. I don't remember if everybody was yelling or not.

Q Apparently he didn't say anything terribly sinister to the girl because she invited ya'll to her place of employment; is that correct?

A True.

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Q Then when you got there, apparently she wasn't in any way threatened, because ya'll spent an hour and a half there talking and laughing; is that correct?

A True.

Q Other people came in and out; they didn't think anything was particularly peculiar, did they?

A No.

Q And apparently the girl felt comfortable enough to make a date with David that evening.

A True.

Q While you were there did David do anything at all unusual as far as you were concerned that might link him with the lake murders?

A No.

Q He didn't bite the girl or anything like that?

A No.

Q Nothing unusual as far as you're concerned?

A No.

Q Was there anything at all unusual about a bunch of you guys seeing a single girl and hollering back and forth? Was that an unusual thing?

A No.

Q Just normal kind of teen-agers carrying on; is that correct?

A Correct.

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Q Okay. Then a few days -- Okay. Sometime after that then you and David parted company; is that correct?

A True.

Q That day. Okay. A few days later did you have occasion to go down to the Waco Police Department and tell them in fact that you had been at Koehne Park that night?

A Yes. True.

Q Why did you think that might be important, Clifford?

A I thought maybe I might have seen a car or something that, you know, might help them out. I had to go in to pay for a check I wrote for my car. It was hot. So I had to go in. And when I got there, I had heard about the murders. And I thought that's the night I was there; maybe I can think of something. So I told them what cars I saw out there, and stuff like that.

Q Did you tell about the Mexican fellows that you had contact with that evening?

A The ones -- well, I told them there were some that were sitting down there, yeah. But that wasn't the ones that were in the truck, but there were some other ones that were over there, and they looked suspicious.

Q I didn't understand that. So why don't you describe that, if you could. What do you mean? What exactly did you tell the police department, the best you can remember again, because that's almost two years ago.

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A I told them the people that we saw in the truck, and I told them we saw some Mexicans down there that looked like low-riders is what I call them. The guy had on a gangster hat and silk looking gangster type hat. Looked like a pretty rowdy type, you know, crew.

Q Where -- I'm sorry, Clifford.
Where were they in relation to -- Well, let's go back. Where were the rowdy types, the ones that looked kind of like low riders, in relation to where you were at the circle that night?

A This was over toward the right beach area where we stopped at the truck to get the joint. They were sitting here, and the truck was up here.

Q Let's do this just so we make it a little bit clearer for everybody. I have been told that I am going to be in big trouble if I write on the chalk board by the keeper of the chalk board, so we're going to use one of these.
Okay. Clifford, here's a pen. If you don't mind, why don't you come up here, stand up here for a minute. And what we're going to be doing is drawing a diagram of the Koehne Park area. So what we'll try to do on this area is we'll try to get -- again, very general, okay? I want the boat ramp in there, the circle, and then the parking area where you met the Mexican folks. And you might put the edge of the lake in here and Lakeshore Drive, so that will

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give us a good orientation.

A Do you want me to just start drawing?

Q Sure. Go ahead.

A (Drawing on paper.)

Q Okay. Clifford, why don't you go ahead -- well, let's do this. Why don't we take the red pen that is right over there on the corner, and why don't you put an X. where the folks were that you bought the joint from on the evening of the 13th.

A (Indicating.)

Q Let's lable that -- in fact, let's lable that X-1.

A (Marking on diagram.)

Q Okay. Then let's put another X, and an let's call that X-2, and put that where you saw the low riders.

A (Marking on diagram.)

Q Okay. Then let's go ahead over to the circle and put another X, and we'll call that X-3. And why don't you put that where ya'll parked when you came back on the morning of the 14th.

A Somewhere around here.

Q Okay. And then, if you could for the jury, go ahead and put another X. And we'll call that X-4, and that will be the picnic table where ya'll sat and talked while you stayed there at Koehne Park.

A Somewhere around there.

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2 Q Good. Okay. I think that's probably all we're going to
3 need. Why don't you go ahead and you can take your seat
4 again.

5 And I think that you said that the only thing that was
6 unusual that you noticed about the Pinto that was there was
7 that the seats were up; is that correct?

8 A Yes. I think so.

9 Q Clifford, I've noticed -- I don't hear real well. I'm
10 having trouble hearing you, so that means the jury will
11 too.

12 A Yes.

13 Q Did ya'll touch the Pinto? Do you remember if you touched
14 it at all?

15 A I don't recall. No.

16 Q Okay. Certainly didn't go through it?

17 A No.

18 Q Okay. Now, you said that sometime a few days later you
19 went over to the Waco Police Department, and you talked to
20 somebody over there. Would that have been Lt. Horton that
21 you talked to?

22 A True.

23 Q And Lt. Horton I understand was one of the people involved
24 in the investigation of lake murders. So you were talking
25 to the people that were responsible for investigating the
lake murders; is that correct?

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A Yes.

Q Can you tell us basically what you told Lt. Horton about the low riders that you saw out there at the lake?

A I just told him that I saw a bunch of suspicious looking people in the car that were out there when we were out there. And basically that's all I told him. I just told him that, and I told him I saw a truck.

Q Where was the truck?

A It was parked there. They were in the truck.

Q Okay. I got you. Okay.

During the morning that you were out there with David Spence on the 14th, did David do anything -- did it look like for instance like he was looking for bits and pieces of evidence to gather up and carry off, or anything like that?

A Not that I can remember, no.

Q Or was he just sitting there drinking beer talking to you like normal?

A Seemed pretty average. We just -- I don't know. We were all drunk. I don't know if he, you know -- I think we just all sat there and drank.

Q And talked about the same thing normal people would be talking about, I guess? Does that sound right?

A I don't even remember what we talked about. We were talking about what we were going to do, or something like

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that.

Q At least nothing that leaps out at you out as far as you can remember.

A No.

Q Now, a few days after that, it's my understanding that you went back over to David's apartment with a girl named Josie Scianti; is that correct?

A Correct.

Q While you and Josie Scianti were at David's apartment, did David indicate to you that he was responsible for the lake murders?

A No.

Q In all the time that you have known David, has David Spence ever told you anything that would indicate to you that he is related to the lake murders or responsible for having committed the lake murders?

A No.

Q You were asked some questions about where you were at the lake and all that good stuff. Do you know for a fact even where the bodies were found at Speegleville Park?

A No, I don't.

Q Okay. If you will look at that illustration over there, I'll represent to you that the yellow pen over there is in Speegleville Park, and that's the approximate location where the bodies were found. Okay?

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Clifford, have you ever been over to that location?

A No, I have not.

Q Okay. Since the lake murders, have you ever been over there, and especially have you ever been over there with anybody smoking a joint of marijuana or anything like that?

A To my recollection, no.

Q Okay. Seems like that would be something you would remember, doesn't it?

A Correct.

Q Okay. If somebody was to take you out over there and say, "Clifford, show me where the bodies were found," do you think you would be able to do it?

A No.

Q Why not?

A Because I don't know where they're at. But I could see from that, yeah. If I had that I probably could.

Q At least you could get close to where that pin is, right?

A True.

Q Did you do any fishing during that summer?

A Yeah.

Q Can you give me an idea of where you used to fish? And again, a general idea is fine, Clifford.

A Where is it that they always race at?

Q I don't have the foggiest idea.

A That's where it is.

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Q Is it a track, the drag racing track out there?
A It's really just a straight road that goes right to a little pier. That's where I always fished at. As you go in around the store, then you take a right. And it's a straight strip where -- they're not supposed to, but they do.

Q I can't tell you because I don't know. But someplace near there is where you do your fishing?

A Yeah. I really, looking at this thing, I don't know.

Q Okay.

A It's immediately when you get off the freeway, and you go around, and you take a right. It's right there. You go straight down. It's a little concrete pier.

Q And that's the only place you've been fishing?

A Right.

Q Okay.

A In that area.

Q I'm sorry.

Q In that area.

MR. HUNT: We'll pass the witness, Your Honor.

THE COURT: All right.

REDIRECT EXAMINATION

By Mr. Butler:

Q Mr. Oliver, you told us earlier that when you first went to

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David Spence's apartment, you thought he mentioned somebody named Tony; is that correct?

A Correct. I think so.

Q Now, on how many occasions -- I believe you said that you had been with him four or five times in the immediate several months before that night.

A Correct.

Q During that period of time, did you have an occasion to meet somebody with him or through him named Tony?

A Yes, sir.

Q And who was that?

A Tony Melendez.

Q And where did you meet him?

A At David's house.

Q Do you know what he was doing at David's house?

A They were staying there for awhile.

Q You say "they." Who else was staying there with him?

A Gilbert, his brother.

Q When you say "Gilbert", you're speaking of Gilbert who?

A Melendez.

Q Had you ever met them before?

A Not until I saw them at David's.

Q Mr. Oliver, speak up.

A Not until I met him through David. That was the first time I ever met him.

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Q All right. So the first time you ever met Gilbert Melendez and the first time you ever met Tony Melendez was with and through David Spence?

A Yes. True.

Q How many times did you see, or talk to them, or were you around them in say the month preceeding the night you've told the jury about?

A Maybe once or twice.

Q Did you ever see either one of them at any time other than when they were with David Spence?

A No. Just -- I ran into Gilbert one time. This was afterwards before I knew, you know, anybody was involved, or David was involved, or anybody. I ran into him on a construction site, and I said hello to him. That's the only time I ever saw him.

Q Did you know of anyone else named Tony that David Spence ran around with or --

A No.

Q -- that was acquainted with?

A No.

MR. BUTLER: Pass the witness.

CROSS-EXAMINATION

By Mr. Hunt:

Q I have a couple of other questions I need to ask you.

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I need to find out, it seems to me that what you said when you were originally asked what David said is you said you're not sure what David said when he came to the door; you think he might have said something about being at the lake with somebody he worked with named Tony as best you can recall?

A I didn't say anything about the lake. I just said that it seems like he said something about he was with Tony earlier, or something like that. But --

Q Tony or what?

A Tony earlier, or something. Seems like I said, "What have you been doing," or something like that. He said, "Well, I was working," or working with Tony, or something like that. I don't know what it was.

Q Working, or working with Tony?

A Something like that.

Q Now, my understanding is that sometime in the months before that Tony and David and Gilbert all lived together; is that correct?

A Correct.

Q But that was months before. It was not in the month before; is that correct?

A Probably so.

Q Okay.

A I'm not sure.

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Q Can you for a fact say that you ever -- let's say that the month of June or July, can you ever say that you saw David with Tony and Gilbert, or Tony or Gilbert, in the month of June or July of 1982?

A For a fact, I don't know. But I know that they had a fight, and they moved out, or something like that. But I don't know really.

Q After they had the fight and they moved out, did you ever see them together, the three of them?

A I don't remember.

Q Okay. You don't remember.

A Correct.

Q Okay. So from that time, from the time they moved out until sometime after the lake murders, you can't remember seeing Tony, David and Gilbert together; is that correct?

A I can't remember that.

Q Now, Tony and David and Gilbert were living together approximately in November of 1981; does that sound right? Last part of November of 1981? Or can you remember that?

A I don't remember exactly when it was.

Q Do you remember where they were living?

A They were living at David's mother's house. She was living out somewhere else.

Q That was David's mother's house on North 15th Street?

A Correct.

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

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

THE COURT: All right. You may step down, sir.
May this witness be excused?

MR. HUNT: Yes.

THE COURT: You may be excused. You're free to go. Thank you, sir.
Call your next witness.

MR. FEAZELL: Your Honor, the State calls Mrs. Dorothy Miles.

THE COURT: Mrs. Miles, if you will just come right around here. Have you already been sworn, ma'am?

THE WITNESS: Yes, sir.

THE COURT: All right. Just have a seat.

DOROTHY MILES,
a witness called by the State, having been duly sworn to tell the truth, testified on her oath as follows, to-wit:

DIRECT EXAMINATION

By Mr. Feazell:

Q Mrs. Miles, will you state your name for the record.

A Dorothy May Miles.

Q All right, Mrs. Miles. This lady sitting here between us will be taking down every word that we say. So I would ask you for all the answers to be out in words instead of with head nods or something like that. Okay?