

1 THE COURT: Have you been sworn, Truman?

2 MR. TRUMAN SIMONS: Yes, sir.

3 THE COURT: All right, sir.

4 TRUMAN SIMONS

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

7 DIRECT EXAMINATION

8 BY MR. HUNT:

9 Q Truman, go ahead and state your name for the record.

10 A Truman Simons.

11 Q How are you employed, Truman?

12 A Deputy Sheriff of the McLennan County Sheriff's  
13 Department.

14 Q How long have you been employed in that capacity?

15 A Since October 15th of 1982.

16 Q What did you do before that?

17 A I was a Sergeant with the Waco Police Department.

18 Q What were your duties with the Waco Police Department?

19 A When I left the Police Department I was assigned to the  
20 Uniform Division as a field sergeant.

21 Q Tell me why you left the Waco Police Department.

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

24 THE COURT: Sustained.

25 MR. HUNT: Your Honor, I believe that that goes

1 directly to what we are here for today, and that is the  
2 prejudice that's been afforded to the Defendant; that  
3 this man's motivation for all the investigation that he  
4 did goes directly to that. We think it's something  
5 that we ought to go into, and I would ask the Court to  
6 let me pursue that line of questioning.

7 THE COURT: Sustain the objection.

8 MR. HUNT: Your Honor, am I to interpret then  
9 that I am not to pursue this line of questioning?

10 THE COURT: Yes, sir.

11 MR. HUNT: Okay. Then I would object on the  
12 basis of Article 40.09 of the Code of Criminal Procedure  
13 in that the Court is refusing to let me perfect my  
14 record.

15 THE COURT: Overrule your objection.

16 MR. HUNT: And I would further object on the  
17 basis of the State and Federal Speedy Trial Act, as  
18 well as the State and Federal rights for the Defendant  
19 be afforded due process.

20 THE COURT: Overruled.

21 BY MR. HUNT:

22 Q Truman, what were your duties when you entered the  
23 McLennan County Sheriff's Department?

24 A When I was hired at the Sheriff's Department I was hired  
25 as a jailer.

1 Q Okay. What were included in your duties as a jailer?

2 A Well, work the booking area, to book and receive

3 prisoners coming in, and working floors, and just

4 various duties that jailers normally carry out.

5 Q When is the first time you had any contact with David

6 Wayne Spence, Truman?

7 A The very first time?

8 Q Yes, sir.

9 A It was around the 15th of September.

10 Q Of 1982?

11 A Yes, sir.

12 Q Okay. And tell me the circumstances of that contact.

13 A At that time I was still working at the Waco Police

14 Department. And it was shortly after Muneer Deeb had

15 been arrested and released, Dennis Baier and I went to

16 the County Jail to talk to David.

17 Q Why did you go to talk to David?

18 A Well, at that time David's name had came up during our

19 investigation of the Lake Waco murder case.

20 Q Came up in what context?

21 A Well, I guess you might say as a suspect.

22 Q By whom were you given that information?

23 MR. BUTLER: Objection, Your Honor.

24 THE COURT: Sustained.

25 MR. HUNT: Your Honor, again I will object to

1 that and ask the Court to let me go into further ques-  
2 tions regarding this matter, because this is directly  
3 involved with Defendant David Wayne Spence's Speedy  
4 Trial Act and the reason why he was deprived the right  
5 of speedy trial.

6 THE COURT: I sustain the State's objection.

7 MR. HUNT: Your Honor, am I to infer by that,  
8 I'm not to pursue this line of questioning any further  
9 relative to that?

10 THE COURT: Yes, sir.

11 MR. HUNT: Your Honor, then I will -- are you  
12 overruling my objection?

13 THE COURT: Overruled.

14 MR. HUNT: Your Honor, then I will object on  
15 the basis of 40.09 of the Texas Code of Criminal  
16 Procedure in that your refusing to let me perfect my  
17 bill of exceptions.

18 THE COURT: Yes, sir. I'm not going to allow  
19 any other questions like that.

20 MR. HUNT: So you are overruling my objection,  
21 Your Honor?

22 THE COURT: Yes, sir.

23 MR. HUNT: In that case I'll object on the  
24 basis of deprivation of the Defendant's right to a  
25 speedy trial under both the Federal and State consti-

1           tutional basis, as well as his denial of due process  
2           under both the State and Federal Constitutions.

3                   THE COURT: All right. I overrule.

4 BY MR. HUNT:

5 Q       When did you first talk with Truman -- or talk with  
6       David, Truman?

7 A       It was at that time in September when Sergeant Baier --

8 Q       Did you keep a record of that conversation?

9 A       No, sir.

10 Q      Okay. When is the next time you came in contact with  
11      David?

12 A      Well, I saw him off and on when I started working at the  
13      Sheriff's Department working the jail. When I first  
14      started out, I went around with the crews that were  
15      feeding breakfast. I was working the midnight to eight  
16      shift, and spoke to him a couple of times just in  
17      passing.

18 Q      Again, I asked you this question and I forgot to write  
19      it down. When did you start working in the McLennan  
20      County Jail?

21 A      I started October 15th of 1982.

22 Q      When was Muneer Deeb arrested?

23 A      September 13th, 1982.

24 Q      Truman, have you ever in your investigation of David  
25      Wayne Spence been able to come up with any witness who

1 has said that David Wayne Spence is a member of the  
2 Church of Satan?

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

5 THE COURT: Sustained.

6 MR. HUNT: Your Honor, I believe that this  
7 again goes directly into the reason for the deprivation  
8 of the Defendant's right to speedy trial, and I would  
9 ask you to let me pursue this line of questioning.

10 THE COURT: Overrule the request. Overrule  
11 the objection.

12 MR. HUNT: Your Honor, in that case I would  
13 request that I be allowed to go a few additional  
14 questions in order to justify to the Court the reason  
15 for my questions.

16 THE COURT: Overruled.

17 MR. HUNT: Your Honor, if that's the case, I'll  
18 object under Article 40.09 of the Texas Code of Criminal  
19 Procedure based on the fact that the Court is refusing  
20 to let me perfect my record.

21 THE COURT: Overruled.

22 MR. HUNT: Your Honor, since that is the case,  
23 I'll object on the Sixth and Fifteenth and Fourteenth  
24 Amendments of the United States and the Texas Constitu-  
25 tion in that the Court is depriving the Defendant of his

1 right to a speedy trial and the right to due process.

2 THE COURT: Overruled.

3 BY MR. HUNT:

4 O When was the approximate date of your next contact with  
5 David Wayne Spence, Truman?

6 A Well, like I said earlier, we saw each other just  
7 in passing a few times there. And the first time I  
8 guess I really had any kind of conversation with him  
9 would have been around the first part of November of  
10 1982.

11 Q When did that conversation -- under what circumstances  
12 did that conversation take place, Truman?

13 A I was working the fourth floor of the County Jail. I'm  
14 not sure -- it was sometime in November. I'm not sure  
15 of the exact date.

16 Q Would you be able to reconstruct that from any record  
17 that is now over in the District Attorney's Office?

18 A No, sir. I could pinpoint the date I started working  
19 that floor through the jail records.

20 Q Okay. Are the jail records available to you?

21 A Well, they are kept by the sergeant and lieutenant of  
22 the jail. I'm sure they would let me look at them to  
23 find out what day it was I started working there.

24 Q Would that be true of all your contacts with David, that  
25 if you could tell what shift you're working on that you

1 would be able to tell approximately what the dates  
2 were from looking at those jail records?

3 A Yes, sir. Well, I worked the midnight to eight shift  
4 the whole time that I worked in the jail. I was off on  
5 Sunday and Monday.

6 Q Okay. Tell me what the circumstances were surrounding  
7 your conversations with David there in the first part  
8 of November on the fourth floor. Tell me in what  
9 context it was. What were you doing; what was David  
10 doing.

11 A Well, I was running the control room. David was an  
12 inmate on the north side there. They have an area they  
13 call the shoot that opens up on both sides. David came  
14 into the shoot the mornings and talked to me a few times.

15 Q How much time would you say that he spent talking to you  
16 there?

17 A It would vary from day-to-day. Sometimes he would just  
18 come in and say hi, and we would pass time for a few  
19 minutes, and he would go back to his cell and go back to  
20 sleep.

21 Q Let's say from the first part of November until the first  
22 part of January of 1983, how much contact would you say  
23 that you had with David?

24 A Probably quite a bit. But as far as a day-to-day basis,  
25 I couldn't break it down into how many minutes we talked



1 to each other.

2 Q All right. Give me your best approximation of how much  
3 time you had spent during this time period and hours  
4 talking with David Wayne Spence?

5 MR. BUTLER: Judge, I'm going to object on the  
6 grounds it's immaterial.

7 THE COURT: Sustained.

8 MR. HUNT: Your Honor, I'll object to the  
9 Court's ruling based on the fact that this is going to  
10 go directly into the contact that this man had with  
11 David Wayne Spence, to the deprivation of David Wayne  
12 Spence's right to due process and speedy trial.

13 THE COURT: I sustain the State's objection.

14 MR. HUNT: Your Honor, may I go further in  
15 order to perfect my record?

16 THE COURT: No, sir.

17 MR. HUNT: Your Honor, then I will object on  
18 the basis of 40.09 of the Texas Code of Criminal Procedure  
19 in that you are refusing to allow me to perfect my  
20 record for future court.

21 THE COURT: All right. I overrule your objec-  
22 tion.

23 MR. HUNT: Your Honor, I would additionally  
24 object on the basis of the Fifth, Sixth and Fourteenth  
25 Amendments to the United States, and the Texas Constitu-

1           tion both on the basis of speedy trial and the right to  
2           due process.

3                   THE COURT: Overruled.

4 BY MR. HUNT:

5           O       During the time that you had contact with David Spence  
6                   in the jail, Truman, did you ever afford him privileges  
7                   that were not afforded to other prisoners?

8                   MR. BUTLER: Objection, Your Honor. Immaterial.

9                   THE COURT: Sustained.

10                  MR. HUNT: Your Honor, I believe with a few  
11                   more questions, I could establish the materiality of this  
12                   line of questioning.

13                  THE COURT: I sustain the objection.

14                  MR. HUNT: Your Honor, is it the ruling of the  
15                   Court then that I can't go further in order to prove up  
16                   the reason for these questions?

17                  THE COURT: Yes, sir.

18                  MR. HUNT: Your Honor, then I will object on  
19                   the basis of 40.09 of the Texas Code of Criminal  
20                   Procedure, and ask the Court to permit me to go farther.

21                  THE COURT: I overrule your request. I overrule  
22                   the objection.

23                  MR. HUNT: In that case, Your Honor, I'll object  
24                   on the basis of the Fifth, Sixth and Fourteenth Amend-  
25                   ments to the United States, and on the basis of the

1 violation of the Texas Constitution in that they have --  
2 in effect the Court has taken away the Defendant's right  
3 to a speedy trial and due process.

4 THE COURT: All right. And I overrule your  
5 request and objection.

6 BY MR. HUNT:

7 O Truman, from the time that David was arrested originally,  
8 which I believe was in September of 1982, until David  
9 was convicted in the first case, how much contact did  
10 you have with him?

11 A Well, I started working that floor up there in November.  
12 And the best I recall, he went to trial in March --  
13 middle or latter part of March of '82. So I worked that  
14 floor during that time period.

15 O During that time how much contact would you say you had  
16 with him? Approximately daily contact?

17 A I wouldn't have any way to say as far as approximate  
18 time.

19 O Did you talk with him any more than you talked to other  
20 prisoners?

21 A Yes, sir.

22 O Is it fair to say that the two of you became relatively  
23 close?

24 A Yes, sir. We talked quite a bit.

25 O Okay. During that time that you were talking to David

1 from September until approximately -- let's say  
2 September of 1982 until March of 1983, was David  
3 attempting to give you information, or did he claim to  
4 be attempting to give you information relative to helping  
5 you solve the lake murders?

6 A We talked about everything you could imagine. Mostly  
7 when we first started talking, we were talking about  
8 personal problems that he was having between himself  
9 and his girl friend more so than about the Lake Waco  
10 case.

11 Q Did you also talk to him during that time about the lake  
12 murders?

13 A Only when he brought it up.

14 Q Only when he brought it up?

15 A Yes, sir.

16 Q Did you ever tell David Spence that if he would help you  
17 with the lake murders that you in turn would see what  
18 you could do on his first case?

19 A No, sir. I never was in a position of authority to do  
20 anything about his first case.

21 Q Did you ever tell him that if he would give you informa-  
22 tion to help in the lake murders that you would pass it  
23 on to people that would be in a position to help him  
24 with that first case?

25 MR. BUTLER: Your Honor, object. It's not

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material.

THE COURT: Sustained.

MR. HUNT: Your Honor, again, I think that this is directly material in that it goes to the intent of the State in denying him his rights to speedy trial.

THE COURT: I sustained the State's objection.

MR. HUNT: Your Honor, I would ask for the opportunity to pursue this line of questioning further with this witness so that I could perfect a bill.

THE COURT: Denied.

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

THE COURT: Overruled.

MR. HUNT: Your Honor, then I would further object on the basis of the deprivation of the Defendant's right to a speedy trial and due process under both the Texas and State Constitutions.

THE COURT: Overruled.

BY MR. HUNT:

Q Truman, you said that you were talking to David about some of his personal problems. Did you do anything to help him with his personal problems?

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

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THE COURT: Sustained.

MR. HUNT: Your Honor, again, I believe that I could show the relevancy of this in a matter of a few questions.

THE COURT: Overruled.

MR. HUNT: Your Honor, are you instructing me that I am not to pursue this line of questioning?

THE COURT: Yes, sir.

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

THE COURT: All right, sir. Overruled.

MR. HUNT: Your Honor, then I would further object on the deprivation of the Defendant's rights to a speedy trial and due process under both the Texas and State Constitutions.

THE COURT: Overruled.

BY MR. HUNT:

Q Truman, did you ever assist in the coordination of either a psychologist or psychiatrist in order to help David?

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

THE COURT: Sustained.

MR. HUNT: Your Honor, again, I would ask the Court to permit me to ask a few additional questions in

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order to show relevance.

THE COURT: Overruled.

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

THE COURT: Overrule your request.

MR. HUNT: I would further object on the basis of the Court's denial of the Defendant's right to the Fifth, Sixth -- under the Fifth and Sixth Amendments of the United States Constitution and the Texas Constitution in that the State and the Court are denying the Defendant the rights to due process and speedy trial.

THE COURT: Overruled.

BY MR. HUNT:

O How many contacts would you say you had with David from the time that he was convicted in the first case until he was actually sent down to TDC, Truman?

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

THE COURT: Sustained.

MR. HUNT: Again, Your Honor, I would object on the basis that if I could ask a few additional questions, I could show the relevance of this material.

THE COURT: Denied.

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

1 the basis of the deprivation of 40.09 of the Texas Code  
2 of Criminal Procedure, which specifically says that the  
3 Court shall let us make our record.

4 THE COURT: Overrule your objection.

5 MR. HUNT: Then I would additionally object on  
6 deprivation of speedy trial and due process under both  
7 the Texas and Federal Constitutions.

8 THE COURT: Overruled.

9 BY MR. HUNT:

10 Q Truman, how much of a time delay was there from the time  
11 that David was convicted in the first case until the  
12 time that he actually was sent down to TDC.

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

15 THE COURT: I'll let him answer that question.

16 THE WITNESS: Like I said awhile ago, I believe  
17 -- the best that I recall, I think his trial on the  
18 other case was over with around March 23rd, I think.

19 Q Okay.

20 A And he left here, I think, around the first part of  
21 August.

22 Q Truman, can you give the Court a good explanation of  
23 why it was that David remained in the custody of the  
24 McLennan County Jail from the last part of March until  
25 sometime in August of 1983, rather than going down to



1 TDC?

2 MR. BUTLER: Objection, Your Honor.

3 THE COURT: Sustained.

4 MR. HUNT: Your Honor, again I would, if I  
5 could -- this questioning goes directly to the depriva-  
6 tion of David's right to a speedy trial in that they  
7 instituted -- it's our contention they instituted the  
8 speedy trial running during that time they refused to  
9 send him down to TDC.

10 THE COURT: All right, sir. Overrule your  
11 objection.

12 MR. HUNT: Your Honor, may I go in a few more  
13 questions to establish the relevance of this line of  
14 questioning?

15 THE COURT: No, sir.

16 MR. HUNT: Your Honor, then I would object on  
17 the basis of Article 40.09 of the Texas Code of Criminal  
18 Procedure.

19 THE COURT: Overruled.

20 MR. HUNT: Your Honor, then I would further  
21 object on the basis that the Court is denying the  
22 Defendant of his right to due process under both Texas  
23 and State Constitution, as well as his right to speedy  
24 trial.

25 THE COURT: Overruled.

1 BY MR. HUNT:

2 Q Truman, when is the first time that you told David  
3 Spence that he was a suspect in the lake murder?

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

6 THE COURT: Sustained.

7 BY MR. HUNT:

8 Q Truman, during the times that you had interviews with  
9 David Spence, how many times were you there in the  
10 presence of Ned Butler or someone else from the  
11 District Attorney's Office?

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

14 THE COURT: Sustained.

15 MR. HUNT: Your Honor, again, we would object  
16 on the basis that we could show the direct harm that  
17 was done to the Defendant in these interviews if the  
18 Court would permit me to ask a few more questions.

19 THE COURT: Overrule your request.

20 MR. HUNT: Your Honor, then we'll object on the  
21 basis of Article 40.09 of the Texas Code of Criminal  
22 Procedure in that the Court is refusing to let me  
23 establish a bill.

24 THE COURT: Overruled.

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

1 object on the basis of the denial of the Defendant's  
2 right to due process and speedy trial under both Texas  
3 and State Constitutions.

4 THE COURT: Overruled.

5 BY MR. HUNT:

6 Q Truman, during the times that you had interviews with  
7 David, did you ever warn him of his rights?

8 MR. BUTLER: Objection, Your Honor. We're not  
9 talking about a Jackson-Denno hearing. We're talking  
10 about a speedy trial motion. It's outside the scope  
11 of this hearing. It's irrelevant and immaterial.

12 THE COURT: Sustained.

13 MR. HUNT: Your Honor, again I would say this  
14 goes directly to the harm that was done to the Defendant,  
15 and I would ask that the Court permit me a few questions  
16 to establish the relevancy.

17 THE COURT: Overruled.

18 MR. HUNT: Your Honor, then I would object on  
19 the basis of Article 40.09 of the Texas Code of Criminal  
20 Procedure.

21 THE COURT: Overruled.

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

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THE COURT: Overruled.

MR. HUNT: I'm sorry. Texas and Federal Constitutions. Am I still overruled, Your Honor?

THE COURT: Yes, sir.

BY MR. HUNT:

Q Truman, in all the contacts that you had with David, did David ever ask for an attorney?

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

THE COURT: Sustained.

MR. HUNT: Your Honor, may I be allowed to ask a few more questions in order to establish the relevancy of this line of questioning?

THE COURT: Overruled.

MR. HUNT: Your Honor, then I would object on the basis of Article 40.09 in that you are refusing to let me perfect my record.

THE COURT: Sustained. I'll not allow any further questions. Do you want the same objections to each one of these?

MR. HUNT: Yes, sir.

THE COURT: All right.

MR. HUNT: So you are also --

THE COURT: You have the same objection to that question?

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MR. HUNT: I do, Your Honor.

THE COURT: And I have the same ruling.

MR. HUNT: All right, sir.

BY MR. HUNT:

Q Truman, can you tell me how many other witnesses were hypnotized besides David?

MR. BUTLER: Objection, Your Honor. It is totally outside the scope of this motion.

THE COURT: Sustained.

BY MR. HUNT:

Q Truman, do you know whether any witnesses in this case -- whether the witnesses, potential witnesses, anybody with any facts of this case, have been hypnotized by anybody in conjunction with the investigation of the lake murders?

MR. BUTLER: Objection, Your Honor. It's totally outside the scope of this motion.

THE COURT: Sustained.

MR. HUNT: Your Honor, I believe we can establish with a few more questions that this goes directly to the harm that was done to the Defendant during the time that he was incarcerated. And we would ask that the Court permit us to ask a few additional questions in order to establish that.

THE COURT: Overrule your request.

MR. HUNT: Your Honor, in that case I would --

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THE COURT: You have the same objections?

MR. HUNT: I have the same objections under  
40.09 --

THE COURT: Same ruling.

MR. HUNT: -- State and Federal Constitutions.

THE COURT: All right. And I overrule your  
objection.

BY MR. HUNT:

Q Do you know where Christine Juhl is?

MR. BUTLER: Objection, Your Honor. It's  
totally outside the scope of this hearing.

THE COURT: Sustained.

BY MR. HUNT:

Q Truman, did you ever tell David that it was your opinion  
that David had a split personality and did the murders  
when he was in his chilly person?

MR. BUTLER: Objection, Your Honor. It's  
totally outside the scope of this motion.

THE COURT: Sustained.

MR. HUNT: Your Honor, I would object to the  
Court's ruling and ask the Court to permit me to ask  
a few more questions in order to establish relevancy.

THE COURT: Overrule your request.

MR. HUNT: Then I'll object on the basis of  
40.09.

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THE COURT: Overruled.

MR. HUNT: And I would object on the basis of the State and Federal Constitutions in that it is denial of due process and speedy trial.

THE COURT: Overrule your objection.

BY MR. HUNT:

Q Truman, do you know of any reason David Spence couldn't have been indicted sooner than he was in this action?

MR. BUTLER: Objection, Your Honor. Totally outside the scope of this motion.

THE COURT: Sustained.

MR. HUNT: Your Honor, I would ask to be permitted to ask a few more questions. We believe this goes directly to speedy trial.

THE COURT: Overruled.

MR. HUNT: Your Honor, then I would object on the basis of 40.09.

THE COURT: Overruled.

MR. HUNT: And I would object on the basis of the State and Federal Constitutions relative to speedy trial and due process.

THE COURT: Overruled.

BY MR. HUNT:

Q Truman, is it your testimony before the Court that you have or do not have either in your custody or in the

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custody of the District Attorney's Office any notes having to do with your conversation with David Wayne Spence?

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

THE COURT: Sustained.

MR. HUNT: Your Honor, again, I would object to the Court's ruling and ask if I could ask a few more questions to show the relevancy.

THE COURT: Overrule your request.

MR. HUNT: Then I would object under 40.09 to the Court's ruling.

THE COURT: Overrule your objection.

MR. HUNT: Then I would further object on the basis of deprivation of speedy trial, due process rights under both the Federal and State Constitutions.

THE COURT: Overruled.

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

THE COURT: All right, sir.

MR. HUNT: No questions, Your Honor.

THE COURT: You may step down.

MR. BUTLER: May this witness be excused, Your Honor?

THE COURT: You may be excused.

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MR. HUNT: Your Honor, we would call Dennis