

A True and Correct Copy

of the

Trial Testimony of

DAVID PURYEAR

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THE COURT: Oh, that's right.

Let's do the next one.

Why don't you just step down and retire back to the hallway, Mr. Beckham, and then we will do the next one, also.

Who's ya'll's next witness? What is his name?

MR. BUTLER: David Puryear.

THE COURT: David Puryear.

Mr. Puryear, you have already been sworn, have you not?

THE WITNESS: Yes, sir.

THE COURT: You have?

THE WITNESS: Yes, sir.

THE COURT: All right.

Just have a seat.

DAVID ELON PURYEAR

called as a witness on behalf of the State of Texas, and having been previously sworn, testified as follows, to-wit:

VOIR DIRE EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. HUNT:

Q Mr. Puryear, I'm Russell Hunt. I would like for you to state your name for the record, first.

A David Elon Puryear.

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Q Okay. Mr. Puryear, it's my understanding that you were incarcerated for some time with David Spence, and you're going to testify for the State, regarding some conversations that you had with David Spence that took place while you were together with him in McLennan County Jail, is that correct?

A Yes, sir.

Q Okay. Can you tell me how many conversations you had with David Spence?

A Oh, three or four.

Q Okay. Can you -- are you able, in your own mind, to divide the conversations up, so you know what he told you in which conversation?

A Fairly well.

Q Okay. Tell me when these conversations took place?

A I can't be sure of actual dates. Because I was -- I mean -- you know -- the day itself.

Q Okay. Give me the best guess that you can.

A Okay. I went from the old County Jail to the new County Jail sometime in March.

Q Okay. March of 1983?

A Yes, sir.

Q Okay.

A Then, from that time on until I was sent to TDC, we had

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several short conversations.

Q Okay. When did you go to TDC?

A Late April.

Q Okay. First of all, is it -- now, my understanding is, it was common knowledge that Truman Simons was looking for information on the lake murders, is that correct, in the County Jail?

A I'm not really sure what he was looking for.

Q Had you ever heard that Truman wanted to get as much information about the lake murders as he could?

A No, sir.

Q When is the first time you heard that?

A Let me see. It's real hard to exactly pinpoint it.

Q Well, was it sometime -- are you saying it was sometime after March of 1983?

A Yes, sir.

Q But it was before you went to TDC in April, is that correct?

A Yes, sir.

Q So, sometime in that time period you heard that, is that correct?

A Yes, sir.

Q Okay. Prior to your first conversation with David Spence, had you talked to any police officer at all about the

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lake murders?

A No, sir.

Q Had anyone told you that, if you could obtain information about the lake murders, that information might be able to help you, in any way, shape or form?

A No, sir.

Q Okay. You had your first conversation with David Spence sometime in March of 1983, is that correct?

A Well, I was arraigned with him earlier in the holdover tank.

Q Okay.

A And that's the first time I saw him.

Q All right. When is the first time that you had a conversation with David Spence about the lake murders? When was that?

A About the middle of March.

Q Okay. Prior to that, your testimony to the Court is, that you had not talked to any police officer about the lake murders, is that correct?

A Yes, sir.

Q Okay. After that first conversation, did you have conversations with any police officer about the lake murders, or about what David Wayne Spence had told you about the lake murders?

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A No, sir.

Q Okay. When is the first time that you had a conversation with any police officer regarding your conversations with David Wayne Spence?

A While I was incarcerated in the Texas Department of Corrections.

Q Okay. Your testimony is, that, at no time while you were upstairs in the County Jail, did you have any conversations with any law enforcement officers, jailers, any law enforcement people --

A Yes, sir.

Q -- about David Spence, is that correct?

A Yes, sir. I had no conversations whatsoever with any police officers.

Q With none of them?

A Yes, sir.

Q Okay.

MR. HUNT: That's all the questions I have, Your Honor.

THE COURT: Does the State have any?

MR. BUTLER: (Shaking head.)

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VOIR DIRE EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY THE COURT:

Q If I understand, what you've said is, during the period of time that you were in the same tank, or with David Spence in the McLennan County Jail, that you had no conversations with peace officers concerning what --

A Yes, sir.

Q All right. And it was after you went to the Texas Department of Corrections?

A Yes, sir.

Q That you had a conversation with any peace officer concerning what he had said to you?

A Yes, sir.

MR. HUNT: Okay, one other question, just to make sure.

FURTHER VOIR DIRE EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. HUNT:

Q You didn't have any conversations with David Spence after going down to TDC in April, is that correct?

A No, sir. I have been in TDC, and then was given parole, and I haven't seen him since.

Q All right. That's fine.

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THE COURT: You may step down and retire back..
Do ya'll want to put him on first?

MR, BUTLER: We will just go ahead and use him
first.

THE COURT: All right.

If you will, just stay there.

Go ahead and bring the jury in.

(Whereupon, the jury was returned to
(the courtroom and the trial con-
(tinued in the presence and hearing
(of the jury as follows, to-wit:

THE COURT: All right, go ahead.

DIRECT EXAMINATION

BY MR, BUTLER:

Q State your name, please?

A David Elon Puryear,

Q All right. Mr. Puryear, if you would, keep your voice
up. There's a microphone there, but be sure and talk
loud enough. You don't have to get too close to it, but
talk loud enough so people can hear you. How are you
employed?

A I am a general carpenter for Bill and Bob's.

Q How long have you been employed in that capacity?

A About two months.

Q What did you do before that?

A I was a roofing contractor.

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Q All right. And who were you working for?

A Myself.

Q And prior to that, Mr. Puryear, were you in the Texas Department of Corrections?

A Yes, sir.

Q All right. What were you doing there?

A Two counts of Burglary of a Motor Vehicle.

Q And what kind of sentence did you receive?

A Three years.

Q Is that the first time that you had been to the Texas Department of Corrections?

A No, sir.

Q When did you go previously?

A 1979.

Q And what was that for?

A Burglary of a Motor Vehicle, also, and Burglary of a Building.

Q And what kind of a sentence did you have that time?

A I received a four year probation, which was reduced to a two year prison term later.

Q All right. When were you arrested on the burglary? Are you presently on parole?

A Yes, sir.

Q And when were you arrested on the offense for which you're

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now on parole?

A On June the 3rd of 1982.

Q And were you placed in the McLennan County Jail, as a result of that?

A Yes, sir.

Q During your stay -- well, how long did you stay in the McLennan County Jail?

A Until April of 1983.

Q During that period of time, did you have occasion to come in contact with David Spence?

A Yes, sir.

Q When was it?

A The first time I met David Spence was in the holdover tank, to be arraigned for the charges that I was convicted of.

Q All right. What -- will you describe for the jury what a holdover tank is?

A A holdover tank is just where they take you and they put you in a little room before you come into court. And they just sit you there, so when your name is called, you come before the judge and be arraigned on your charges.

Q How many people were in that holdover tank?

A Myself and three others.

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Q All right. Who were those three other people?

A David Spence, Gilbert Melendez, and a young black guy, I don't know his name.

Q Did you know either one of the other two?

A Okay. My family lived next door to Gilbert Melendez's aunt and uncle. I had seen him occasionally there.

Q Did you recognize him?

A So-so.

Q Did you strike up a conversation with him?

A Yes, sir.

Q Were you introduced to David Spence?

A Yes, sir.

Q Is that the same David Spence here in the courtroom today?

A Yes, sir.

Q Would you identify him, please?

A He's right there.

MR. BUTLER: Your Honor, would the record reflect that he has pointed to the Defendant in this case?

THE COURT: Yes, sir.

BY MR. BUTLER;

Q During your stay in that holdover tank, did you overhear any conversation between Gilbert Melendez and David Wayne Spence?

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A Yes, sir, Gilbert -- we were having small talk in the tank. And Gilbert said that what had occurred -- what they had done, what they were being charged on, was almost as much fun as what had transpired at the lake. Immediately --

Q All right. Now, wait. He said what they had done was almost as much fun as what had transpired at the lake?

A Yes, sir.

Q All right. Now, what, if anything, did David Spence reply to that?

A David immediately told him to shut his "fucking mouth."

Q Are those exactly the words that he used?

A Yes, sir.

Q All right. Did you notice anything unusual about him, at this time?

A Well, David looked like he could have just -- like he was possessed by something, like he could just reach out and rip his heart out for opening his mouth about it.

Q All right. And what did Gilbert Melendez do?

A Nothing. He shut his mouth, didn't say anything else.

Q All right. Did you hear any other conversation relating to that matter, at that time?

A No, sir.

Q Did you later have another occasion to see David Wayne

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Spence in the jail?

A Yes, sir. I was transferred from the old County Jail back to the new jail.

Q All right. When was that?

A In March of 1983.

Q All right. Did you have occasion to have conversations with him while you were there?

A Yes, sir. On several occasions.

Q On any occasions, did you have conversations concerning the lake murders or the killings out at Speegleville Park?

A Yes, sir. On several different occasions I talked to David. And he would say things like, you know, I didn't commit these crimes, I don't know why I am being bothered with it. And on another occasion he said, "I did, but I don't know why." And he said on a later date that, "I did it, and I thoroughly enjoyed it."

Q All right. Was there anything different about the one time that he said, "I did it, and I thoroughly enjoyed it."?

A Yes, sir. He was taken downstairs by the District Attorney's Office, and they showed him photographs of the killings, and he came back madder than hell.

Q All right. Would you describe -- what do you mean --

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what did he look like? How did he act when he came back?

A Okay. When he came back, he wouldn't say anything to anybody. He went straight to his cell and stayed until, what they have, "a house call." That house call is when they --

Q All right. Did he do anything -- excuse me, Did he do anything unusual while he was back in his cell?

A He cried.

Q All right, How did he cry? Loud?

A Yes, sir.

Q Quiet?

A Real loud.

Q Did you look at him?

A No. I was sitting at a table playing cards two tables down from where his cell was. I could just hear him, I wasn't standing at the door watching him. But shortly thereafter, he came outside the door.

Q And would you describe his condition, at that time?

A He was thoroughly disgusted and told everybody sitting there, that he did the crime and he was glad that he did it and he enjoyed it. And he looked like the devil himself was standing there talking to us.

Q What do you mean by that?

A He just looked like he could just absorb your soul.

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is your art work?

A Yes, sir.

MR. BUTLER: Your Honor, we would offer State's Exhibit No. 41 into evidence.

MR. HUNT: We don't have any objections to 41, Your Honor.

THE COURT: All right.

State's No. 41 is admitted.

(Whereupon, the instrument above referred to was received in evidence (as State's Exhibit No. 41, and the same is in the custody of the Court Reporter for the 54th Judicial District Court.

BY MR. BUTLER:

Q Mr. Puryear, if you would, tell the jury what was your occasion -- hold up the corner -- what was your occasion for drawing this?

A Okay, I was just doing some art work. And I found the pillowcase and I ripped the pillowcase open. So, I started drawing the little boundaries around the outside. And I had a picture of a .44 Magnum, so I drew it in the center. And a lot of people were going around and they were calling David "The Texas Outlaw." So, I got the idea to put "The Texas Outlaw" on it. Well, I gave -- I presented it to David.

Q All right. When you presented it to him, did he ask you

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Q What else did he say about it?

A I didn't catch any more conversation. Because as soon as the doors were opened, I went straight to my cell.

Q Why?

A Because I was scared as hell.

Q Did you later have an occasion, Mr. Puryear, to do some art work in the cell?

A Yes, sir, I have.

(Whereupon, the instrument herein-
(after described was identified as
(State's Exhibit No. 41.

BY MR. BUTLER:

Q Mr. Puryear, let me show you what has been marked for identification purposes as State's Exhibit No. 41, and ask if you can identify that, please?

A Yes, sir,

Q What is it?

A It is a bandana that I drew for David Wayne Spence.

Q All right. Did you yourself draw that?

A Yes, sir. I drew the little boundaries around it and the pistols and the girls on front.

Q All right. And what did you do with it after you drew it?

A I presented it to David as a gift.

Q All right. This is the same one that you drew, and that

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to do anything?

A Yes, sir. He asked me to draw the two girls on the picture.

Q And did he have any special request as to how to draw them?

A Yes, sir. He wanted one dark haired and one light haired.

Q Did he ask you to do anything else with it?

A No, sir. I had trouble drawing feet and hands, so that's why the ice chest is sitting there. And when I put the words "Budweiser Light", he was madder than all get out and told me that that just ruint the whole picture.

Q But he did specifically request that you put the two girls on there, one with dark hair and one with light hair?

A Yes, sir.

Q Mr. Puryear, when were you first contacted by anyone in law enforcement regarding this case?

A While incarcerated in TDC.

Q When did you receive your sentence?

A Sometime in late -- or early March.

Q Was that before you even were moved to the same cell with David Spence?

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A No, sir. I got my time after I was moved to the cell with him. And they have a 30-day waiting period before they transfer you to prison.

Q But you did receive your time before you ever talked to anybody about this case?

A Yes, sir.

Q At the time you were first contacted about this case, who contacted you?

A Ned Butler and Dennis Baier.

Q When you're speaking of "Ned Butler," you're talking about me?

A Yes, sir.

Q And Sergeant Dennis Baier of the Waco Police Department?

A Yes, sir.

Q Where did we contact you?

A The Gatesville Unit, Texas Department of Corrections.

Q At any time, did either Sergeant Baier, or me, or anyone else, promise you anything?

A No, sir.

Q At any time, did you ever expect anything?

A No, sir.

Q At any time, were you threatened in any way --

A No, sir.

Q -- in order to get you to testify?

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A None whatsoever.

Q Why are you testifying?

A I have four reasons for testifying, Jill Montgomery, Kenneth Franks, Raylene Rice, and my 17-year-old sister.

MR. BUTLER: Pass the witness.

CROSS EXAMINATION

BY MR. HUNT:

Q Your 17-year-old sister. Was your 17-year-old sister killed, or something, Mr. Puryear?

A No, sir. When Ned Butler came to see me, Ned asked me how I would feel if it was my sister that died.

Q Okay. And you would feel badly, as anybody would, if somebody died in a horrible murder, wouldn't you?

A Yes, sir.

Q You wouldn't want to see the wrong person put to death for that murder either, would you?

A No, sir, I wouldn't.

Q I want to talk to you about some of the questions, some of the things that you said. You said that when you started out in the cell with David Spence, he said, "I didn't do it," is that correct?

A Yes, sir.

Q During that time, did he also -- first of all, you also said that that was in March of 1983, is that correct?

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A Sometime in that area.

Q Okay. Were you aware that he had been incarcerated since sometime in September of 1982?

A Yes, sir, I was.

Q Were you also aware that he had been interrogated about that and questioned about that continuously since that time by Truman Simons?

A Well, I knew that he was having to see people, but I wasn't actually sure what he was being talked to about.

Q Having to see people. You mean he had to see Truman Simons?

A Well, he was taken out of the cell so many times, it's hard to know who he was talking to.

Q He was taken out of the cell a number of times, wasn't he?

A Yes, sir, he was.

Q During which time, he was confronted with the fact that they were accusing him of doing the lake murders, isn't that a fact?

A I'm not really sure. Because he had already been charged with one crime, and he talked about that a lot, too.

Q Okay. But he was being continuously interrogated about the lake murders, wasn't he?

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A I'm not sure.

Q Didn't he come back and say, they keep talking to me about the lake murders, and telling you that they felt that he did the lake murders?

A Only on one occasion did he say -- actually tell me that they were harassing him about it, and that's when he came back mad after seeing the photographs.

Q Okay. And at the time he saw the photographs, did he tell you that they had taken him in there, and not only told him that they figured he did it, but showed him all of the photographs, or a whole series of photographs, showing him the bloody victims of that crime?

A Yes, sir, they did.

Q At the same time that they were accusing him of having committed the crimes?

A I believe so.

Q And at that time, he said, "I didn't do it," isn't that correct?

A No. At that time, he said, "I did do it, and I thoroughly enjoyed it.

Q Is that the time that he was so upset that he cried?

A Yes, sir.

Q Is that also the time that he was having trouble with the girl friend, Christy Juhl? Or do you know anything

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about that?

A I don't know anything about that.

Q Okay. So, that that was -- after they had showed him the photographs, is the time that he became so upset that he went in his cell and he cried?

A Yes, sir.

Q And, then, you're saying that he came out and said, "I did it, I thoroughly enjoyed it."?

A Yes, sir. He was totally pissed.

Q Thoroughly pissed with what?

A Being told that he did it and that he was going to be convicted of the crime.

Q Had he been told that he was going to be convicted of the crime?

A That's what he told us.

Q He told you that they had told him, not only that they figured he did it, but they were going to convict him of the crime, is that right?

A Yes, sir.

Q And they had confronted him with all of the gruesome photographs of that crime, hadn't they?

A On that occasion.

Q And he was upset?

A Yes, sir.

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Q Would you be upset if somebody showed you a series of bloody photographs of a crime and accused you of the crime, if you hadn't done it?

A Well, I've seen the photographs, and I was upset anyway.

Q Where did you see the photographs?

A Laying on the desk, while I was being interviewed.

Q Laying on the desk, while you were being interviewed?

A I was being asked what I knew about this, and they were laying there on the desk.

Q When was that?

A A long time ago.

Q You were being interviewed and asked what you knew about the lake murders?

A After I came back from TDC.

Q Tell me more about that conversation. Why was somebody interviewing you because of the lake murders?

A I was being asked what I knew about the case.

Q When was that?

A I can't remember the date.

Q Approximately when was that?

A October of last year.

Q October of 1983, you were being asked about the lake murders?

A Yes, sir.

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Q And they showed you all of the gruesome photographs?

A No, sir. I wasn't showed the photographs. I looked at the photographs.

Q You looked at the photographs?

A Yes, sir.

Q How did you happen to look at the photographs?

A They were sitting on the desk and everybody was out of the office, so I looked.

Q Who were the other people that was there?

A I'm not really sure now, it has been so long.

Q When was that, in relation to the time that you talked to Dennis Baier and Ned Butler?

A It was after I talked to them. After they came to Gatesville and talked to me.

Q They came to Gatesville and talked to you?

A Yes, sir.

Q Did you give them a statement, at that time?

A No, sir. I refused to give a statement.

Q Okay. Then sometime after that, you wound up in where with the pictures? The District Attorney's Office?

A No. The little office next to it.

Q Okay. Where they showed you all of the pictures of the gruesome crime? Or you happened to observe all of the pictures of the gruesome crime?

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A Yes, sir. I picked the photographs up and looked at them myself.

Q And they were bloody and gruesome, weren't they?

A Yes, they were.

Q Were they accusing you of being involved in the crime?

A No, sir.

Q Did anybody suggest that you might be involved in the crime?

A No, sir.

Q They just happened to be showing you the gruesome photographs?

A No one showed them to me, I looked at them myself.

Q How did you happen to be there?

A I was being asked what I knew about the case.

Q I see. And at the same time, you were also being exposed to all of the bloody photographs?

A Well, I was being very nosey, you could say.

Q How did they find out that you had done the neckerchief?

A Sir?

Q How did anybody find out that you had done the neckerchief?

A I was taken to the Department of Corrections. When I came back, they said, "You drew this."

Q Okay. Who said that?

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A Ned Butler.

Q Ned Butler said you drew the photograph.

A He asked me if I drew the photograph.

Q Okay. And you said, "Yes, I did."?

A Yes.

Q Did he ask you the significance of it?

A Yes, he did.

Q Okay. You said that the only thing David Spence asked you to put on this thing was the dark haired girl and the blond haired girl, is that right?

A Yes, sir.

Q So, all of the rest of the things that are on here are of some significance to you, but not to David Spence, is that correct?

A I drew the .44 Magnum on there, because I had a picture of it.

Q Okay.

A And "The Texas Outlaw" was on there, because that's what everybody in the cell was calling him.

Q What's the significance of the designs around the edge?

A Just for something to look at.

Q David Spence told you to draw the dark headed girl and the blond headed girl, is that correct?

A Yes, sir.

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Q Did he say what they should be wearing?

A No, sir. I took a picture out of People magazine, and then that's just the way the picture looked.

Q Okay. You just took pictures out of People magazine. What is the significance of the box by the feet?

A Okay. I can't draw feet and hands, so I put the chest there beside it, in order to cover up the mistakes of the feet and the hands.

Q Did David Spence ever tell you why he was upset because you put "Budweiser Light" on there?

A No, sir.

Q Did David Spence tell you what brand of beer to put on the cooler?

A No, sir.

Q Did David Spence ever tell you that he doesn't like Budweiser Light, that he never drinks Budweiser Light, and that's why he was upset?

A No, sir. He just said that, when I put Budweiser Light on there, I messed the photo up.

Q What kind of beer do you drink?

A Budweiser.

Q You don't drink Budweiser Light?

A No, sir, I don't.

Q If somebody was to do a picture of you and put Budweiser

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Light on it, would you think that that was accurate of you?

A No. I would think it was rather comical.

Q You would think it was comical?

A Yeah.

Q Why would you think that?

A Somebody was playing a joke on me.

Q Did you do the neckerchief to do a joke?

A No, sir, I didn't.

Q You said that in your first conversations with David, David said, "I didn't do it." Did he say anything else about that?

A No, sir.

Q Just said, "I didn't do the crime."?

A Somebody brought the subject up, and he said, "Well, I didn't have anything to do with this."

Q Okay.

A Said, "I didn't commit it."

Q All right. Then, the next time, you said something -- and I didn't catch the last part of what you said -- you said, "I did it," but something, and I didn't hear that.

A "I don't know why."

Q "But I don't know why I did it?"

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A Yes, sir.

Q Were you aware, at that time, that David was also being accused of having some kind of split personality, where he could do things and not know why he did things?

A Yes, sir. I had heard rumors about it.

Q You had heard rumors about it. Did David Spence ever tell you that he had a split personality?

A Yes, he did.

Q He said he did? Or he said that people had accused him of that?

A He said he thought he had one.

Q He thought he had a split personality?

A Yes, sir.

Q What else did he tell you about that?

A Let's see. That he wanted to go see a psychiatrist and try to get some kind of help.

Q Are you aware that Truman Simons is the one that first brought up the subject of whether or not David had a split personality?

A No, sir, I am not.

Q He didn't tell you the source of that?

A No, sir.

Q Are you aware that he saw a psychologist and a psychiatrist while he was in jail?

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A No, sir.

Q Did he tell you that?

A He didn't say anything about it. He said he wanted to find some kind of help.

Q He wanted help?

A Yes, sir.

Q If he had a split personality?

A If he had one.

Q Okay. When David first came back after that interview where they showed him the bloody photographs, what was he doing when he first came into the cell?

A Walking as fast as he could, going to his own cell.

Q Just crying? Or did he cry only after he got there?

A He cried when he got into his cell.

Q And he cried loud enough, so that ya'll, everybody could hear him crying, is that correct?

A Yes, sir.

Q How many other people were there?

A Myself, J. D. Milliken, and one other guy.

Q Who was the other guy?

A I can't remember his name. His nickname is "Cowboy."

Q "Cowboy"?

A Yes, sir.

Q Describe "Cowboy."

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A Kind of tall, thin, bushy hair, tacky beard, walked with a limp.

Q Okay. Let's go back to the time in October of 1983, when you happened to be in the District Attorney's Office and happened to see the photographs. Why were you there?

A I was being asked what I knew about the murders.

Q How did you happen to be there? Where did you come from?

A Texas Department of Corrections.

Q Were you bench warranted there?

A I wrote Ned Butler a letter and told him that I would tell him anything that I could remember about the case.

Q When did you do that?

A About June the 4th of 1983.

Q June the 4th of 1983. And the first time you talked to Ned Butler was when?

A Before that, A week, maybe ten days before that. I'm not really sure of the exact date.

Q Where was that conversation?

A Texas Department of Corrections.

Q At that time, what did Mr. Butler tell you about the lake murders?

A He just wanted to know if I had any information leading to it.

Q Did you tell him you did, or didn't?

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2 A I told him I didn't want to have nothing to do with it.

3 Q And that was what you said when you were talking to him
4 and Dennis Baier, too, is that correct?

5 A Yes, sir. That's exactly what I told them when they
6 interviewed me.

7 Q Then, sometime after that, you sent them a letter saying,
8 I've changed my mind?

9 A Yes, I did.

10 Q And they bench warranted you back up here, and you were
11 in the District Attorney's Office, looking at pictures
12 and giving them a statement, apparently?

13 A I was supposed to be giving a statement, but something
14 happened and everybody left, so I looked at the photo-
15 graphs.

16 Q Okay. Now, just so that I understand your prior criminal
17 history, seems like you said -- and I don't want to
18 misstate this -- that you had two burglaries of motor --
19 well, what was your first sentence? Was it Burglary of
20 a Building, or Burglary of a Motor Vehicle? I don't
21 understand that.

22 A My first conviction was Burglary of a Building and
23 Burglary of a Motor Vehicle. Burglary of a Motor Vehicle
24 was dropped, for a plea of guilty, on the Burglary of a
25 Building.

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Q Okay. So, you had a Burglary of a Building and a Burglary of a Motor Vehicle. They dropped the Burglary of a Motor Vehicle and you pled on Burglary of a Building?

A Yes, sir. Four years probation.

Q And they gave you four years probation. And, then, you said it was changed to two years to do, is that correct?

A Yes, sir.

Q I assume it was changed to two years to do, because you got your probation revoked, is that correct?

A Yes, sir.

Q For what crime did you get your probation revoked?

A Not reporting and not making payments.

Q Okay. Then they revoked your probation, so you got two years to do?

A Yes, sir.

Q And you got out, and then you got caught, apparently, doing another two burglaries of motor vehicles, is that correct?

A Yes, sir.

Q And they sentenced you to TDC for that?

A Yes, sir.

Q So, as you sit there, you have now -- I guess that is four felonies, right? You have actually been convicted of Burglary of a Building and two Burglaries of Motor

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Vehicles?

A Yes, sir.

Q All right.

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

MR. BUTLER: Mark that.

(Whereupon, the instrument herein-
(after described was identified as
(State's Exhibit No. 42.

MR. BUTLER: Could I have just a moment, Your
Honor,

THE COURT: Yes, sir.

MR. HUNT: All right. Your Honor, while we're
waiting, we would like to see the statement that Mr.
Puryear gave.

(Whereupon, Court stood at ease
(momentarily.

REDIRECT EXAMINATION

BY MR. BUTLER:

Q Mr. Puryear, Mr. Hunt asked you about a letter that you
wrote to me?

A Yes, sir.

Q Let me show you what has been marked as State's Exhibit
No. 42 for identification purposes, and let me ask if
you can identify that?

A Yes, sir. That's the letter that I wrote to you.

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Q All right. Would you look at all three pages? Or it's two pages and an envelope.

A Yes, sir. It's mine.

Q All right. Is that the letter that you sent to me?

A Yes, sir.

Q Okay. Is this the letter that you sent in August of 1984?

A Yes, sir.

MR. BUTLER: Your Honor, we would offer what's marked as State's Exhibit 42 into evidence.

MR. HUNT: We're going to have to read it, Your Honor.

THE COURT: Yeah, I understand.

(Whereupon, Court stood at ease momentarily.)

MR. HUNT: We have no objection to the exhibit, Your Honor.

THE COURT: No objections to State's Exhibit No. -- what is it? Forty-two? State's 42 is admitted.

(Whereupon, the instrument above referred to was received in evidence as State's Exhibit No. 42, and a copy of the same appears in this record at the page shown in the Index hereof.)

BY MR. BUTLER:

Q Mr. Puryear, as I understand your testimony, you've said

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that Sergeant Baier and I came to TDC to interview you about any possible knowledge you might have concerning this crime?

A Yes, sir.

Q At that time, you told us that you didn't have anything to say to us and you didn't have any knowledge of it, is that correct?

A Yes, sir.

Q All right. And, then, you've stated that you subsequent to that sent a letter to me?

A Yes, sir, I did.

Q And that is the letter that you sent?

A Yes, sir.

Q Would you read that letter to the jury, please?

A Yes, sir. If I can.

"Mr. Butler:

"Sir, I am sending this letter after thorough consideration. I have made a decision that I think would be helpful to you.

"When I first talked to you I was very withdrawn about saying anything too positive. I didn't want to give the indication I knew anything about this case. But, sir, my conscience won't let me deny the knowledge I have.

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"You asked me a question that struck very close to home. It was pertaining to my younger sister. My 17-year-old sister means a hell of a lot to me. This is what changed my mind.

"The information that I have would be helpful to you. Just how much I will let you decide. If you think you may need my help I will be very willing to put an end to this madness.

"Sir, I am not doing this in order to make any deals. I only have a few months left here and don't feel it necessary to try any deal making. Although I don't want to make any kind of statement here. The walls of this place have very good ears and I don't think it would be too safe to say anything around this bunch.

"As I stated I will be very happy to help in any way I can and the information I contain will be very useful in this case.

"If you would like to know what I wish to get off my conscience let me know. I will be waiting for your reply in this matter. If you decide you don't need me then I will have let it blow off because I will have tried to clear my conscience.

"Respectfully, David E. Puryear."

Q And after I received that, you were bench warranted back

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here, and then we had the conversation concerning what you have testified to here today, is that correct?

A Yes, sir.

Q And you weren't offered any deals, were you?

A No, sir.

MR. BUTLER: Pass the witness.

RECROSS EXAMINATION

BY MR. HUNT:

Q Mr. Puryear, when Mr. Butler and Dennis Baier went to talk to you at TDC, did they tell you that they knew that David Wayne Spence did the crime?

A They weren't really sure.

Q They were pretty sure, they just weren't real sure. What did they tell you?

A It's hard to remember exactly what they said.

Q But they indicated to you that they felt that David Spence did the crime, though, is that fair?

A They asked me if I thought somebody else did it.

Q Okay. Did you think somebody else did it?

A No, sir, I didn't.

Q Did you think David Spence did the crime, then?

A Yes, sir, I did.

Q Okay. And you wanted to help solve the crime, because you felt like David did the crime?

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A Yes, sir.

Q Okay. I'm going to ask you about the statement that was made when Gilbert was present, okay?

A Yes, sir.

Q All right. According to the statement that you gave on November the 3rd of 1983, you said that Gilbert said "This case was almost as much fun as what had transpired at the lake," is that correct?

A Yes, sir.

Q Is that what Gilbert actually said?

A Those were his exact words.

Q Gilbert said "transpired"?

A Well, "happened," "transpired." It's hard to remember, you know, word for word.

Q It's hard to remember exactly what Gilbert said, isn't it?

A Well, it is. It has been over a year.

Q Okay. All right.

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

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

THE COURT: You may step down.

Do ya'll want this witness kept around?

MR. HUNT: Yes, sir.

THE COURT: All right.

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2 Sir, now, you're still under -- Mr. Puryear,
3 you're still under subpoena. I'm going to excuse you
4 from the Courthouse, but you will still be under the
5 subpoena and subject to recall. You need to advise the
6 District Attorney where they can reach you, in case it's
7 necessary for you to be called back.

8 THE WITNESS: Yes, sir.

9 THE COURT: All right.

10 You're excused.

11 (Whereupon, Counsel for the State,
12 (Counsel for the Defense and the
13 (Court went into the Court's Chambers
14 (and returned a short time thereafter,
15 (and the trial continued as follows,
16 (to-wit:

17 THE COURT: All right, Ladies and Gentlemen of
18 the Jury, it's going to be necessary for the Court to
19 take up a matter outside the presence of the jury. It
20 will take a few minutes, and it's hard for me to tell
21 you exactly how long it will be. It will probably be
22 ten or 15 minutes. I'm going to have to recess you, and
23 I'm going to recess you for at least 15 minutes, and ask
24 you to go back to the jury room. You know, you can walk
25 around or whatever.

Just keep in mind the instructions that I have
given you.