

State of Texas

Bexar County

Statement of Jesse H. Ivy

Before me, the undersigned authority, appeared Jesse H. Ivy, who upon his oath states as follows:

1. My name is Jesse Ivy. I am presently incarcerated at the Bexar County Adult Detention Center in San Antonio, Texas. I am making this statement voluntarily so that the truth can be known about my involvement in the capital murder trial of David Wayne Spence.

2. I first heard of David Spence in 1983, when I was an inmate in the Eastham Unit of T.D.C., in Lovelady, Texas. I was told by the warden, with whom I had a close personal relationship, that someone named David Spence was being sent down to Eastham and that "not one hair on his head" was to be harmed, because "McLennan County has plans for him." I remember him saying those words exactly. I knew that the Warden had come to me because I was on the K-Line and he knew that I could take care of the matter for him. Everyone on the Unit knew that the K-Line, which we called the "OK Corral," ran that place. That's why the warden came to talk to me about David Spence, instead of talking to someone else. I told him that I would take care of it. After that, I made sure that either I, or another inmate I trusted on the Unit, was around Spence at all times, so that he wouldn't be harmed.

3. At a later date, I spoke to an inmate named Charles Blackshear who told me that Spence had killed three teenagers in

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Waco. Some time after that, I was called to the warden's office, where I was asked whether I knew anything about the Spence case. I told them what Blackshear had told me and they took a very brief statement, which I signed.

4. I had no warning that I was going to be taken to McLennan County on the Spence case. When they put me in the van, I told them I didn't know why I was being taken there. I didn't even know that Waco was the county seat. I told them I didn't have any cases in Waco, but they took me to McLennan County anyway.

5. After I was in the McLennan County jail, I was talked to on many occasions by Truman Simons and Ned Butler. They asked me what I knew about the Spence case. I told them that all I knew was that Spence had told me that he had heard that Gilbert Melendez had made a taped statement to the police about the murders, and that Gilbert had told the police that Spence was involved in the killing. That was all that Spence had ever told me.

6. Simons and Butler told me that Spence was guilty. They showed me color photographs of the dead kids, which made me feel terrible. They told me the details of the crime the way they believed it happened. The story made me very angry, because I couldn't believe that somebody could have done something so awful to people who hadn't done anything to them.

7. I continued to have conversations about the case with Truman Simons after that, and he continued to tell me facts about the killings. Talking about the case with Simons always "pumped

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me up," because I would get so angry about what happened to the kids. After I got "pumped up," I would go back and tell other guys in the jail about the facts of the case. You could say that Truman Simons and Ned Butler put the facts of the case in my mouth, and I put them into the mouths of the other guys in the jail.

8. After Truman Simons and Ned Butler knew that I was going to testify against Spence, while I was in the McLennan County jail before his trial, I was allowed numerous privileges that ordinary inmates were denied. I was allowed to keep alcohol and marijuana inside the jail. The guards knew that I had it, but they had been given orders by Truman Simons not to mess with me. I was confronted once by Simons about it, and he warned me he could send me back to the penitentiary. I told him he could send me back to the penitentiary any time he was ready. After that, he left me alone about my alcohol and weed.

9. Another thing I got that other inmates didn't get, was that I got to have conjugal visits with my wife in the D.A.'s office. I would be taken over to the D.A.'s office, on Saturday afternoons, and my wife would be waiting there. We would have completely unsupervised visits in the office, and Truman Simons would leave my wife and me alone so that we could have sex. I know that he knew about what was going on, because the other jail guards used to kid me about it. My wife was also allowed to bring me "free world" food and cigarettes, which I could take back to the jail. The only people who got privileges like this were the people who were going to testify against Spence at his

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trial.

10. I never wanted to testify against Spence. I had never testified against anyone during all the years I have been in and out of prison, and I didn't want to start. Besides that, I really didn't know anything to testify about, because Spence had never told me anything about having done the murders. Finally, it came down to them making me testify. I only agreed to testify because they promised me that I would be placed under federal protection after I did. I knew that guys who testified against other people were in a lot of danger in T.D.C., and I didn't want to spend time in prison having to watch my back every second. So when they promised me they would take care of me, I agreed to testify.

11. Even after that, I almost changed my mind once because I got so fed up with the whole situation. I remember a conversation with a guy named Fuller and a woman named Darla Sadler in the jail, when I told them that I was just going to tell the truth about the whole thing, that Spence had never said anything to me about him committing the murders.

12. When I testified at Spence's trial, the only part of my testimony that was true was the part about him telling me that he had heard that Gilbert was telling the cops in Waco that he was involved in the killings. All the rest of my testimony was false. Truman Simons and Ned Butler knew that my testimony was false, because they were the ones that told me the details about the crime that I then testified I had heard from Spence.

13. While I was an inmate at Eastham, I made a ring in the

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jewelry shop on the Unit. It was made of gold and had diamonds on it. I got the materials for it from another ring, which was given to me by another inmate there. I was trying to sell the ring to some of the guards at the McLennan County jail, because TDC had messed up the accounts and my money from Eastham had not been put on the books in McLennan County, so I didn't have any money at all. Truman Simons suggested that I talk to Vic Feazell. Vic Feazell bought that ring from me before I testified in David Spence's case. He paid me seven hundred dollars for it (\$700.00), and he paid with a check made out to me. I remember him telling me that the check was "good," and I remember laughing and telling him that it better be, since he was the District Attorney. I gave the check to my wife, and she kept the money from it.

14. One time after I testified, I was in Vic Feazell's office talking to him about another case I had on me in San Antonio. It wasn't unusual for me to be in the D.A.'s office, since they treated me like one of the boys. They even tried to give me a big styrofoam "key to the jail," or "key to the city," as a present. Anyway, I was sure I had that case in San Antonio beat, but Vic Feazell told me that the D.A. from San Antonio, who was a guy named Milsap, was a friend of his. Vic Feazell told me that he and Milsap had gone to law school together, and that he would talk to Milsap. While I was in his office, Vic Feazell called up Milsap on the phone and put in a good word for me about my case. After that, when I went back to San Antonio on that case, they offered me a great deal -- ten years on an aggravated

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robbery with a weapon. So I went ahead and pleaded guilty, and because of the deal I didn't have to do any additional time in prison.

15. I stayed in touch with Vic Feazell and Ned Butler after I went to prison later. I wrote Feazell and spoke numerous times to him on the telephone. The most recent conversation I had with him was back in June or July. He told me that they were going to set execution dates on Spence and that it would be the same date on both cases. He also told me that Muneer Deeb was going to beat his case in the Court of Criminal Appeals and that he would be taken back to Johnson County for retrial. I also know that Vic Feazell wrote letters to my parole board for me, telling them what a good job I had done testifying in the Spence trial. I don't know whether that did any good or not.

16. I am making this statement because none of the people in McLennan County who promised me things lived up to their end of the deal, and I have paid the price for that. I spent three years in T.D.C, watching my back every single day because I had testified against David Spence. Truman Simons and Ned Butler and Vic Feazell promised me that I wouldn't have to do that, and they lied to me. I am also making this statement because I believe that David Spence could be innocent, and I don't have anything against him personally. I think that people need to know that innocent people can get executed if no one stands up and tells the truth. That's why I am making this voluntary statement.

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I affirm that the foregoing statement, with paragraphs numbered 1 through 16, is true and correct to the best of my knowledge and belief, and I so state under the pains and penalties of perjury.

Jesse Ivy
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Signed and sworn before me
this 23rd day of October, 1991.

Patrick Delaine
Notary Public, State of Texas

