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about that?

A Jim. Uh-huh. What he knew about David Spence.

O Okay.

A As far as David Spence's character, or who his associations were.

O Okay.

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

MR. BUTLER: We don't have any questions, Judge.

THE COURT: You may step down.

MR. HUNT: Your Honor, at this time, we would move the Court to exclude the testimony of Melissa Sims, based on the fact that she has talked to one person about the general reputation of the Defendant, and that her recollection of that is relatively confused, and that that was based on that other witness' hearsay, which is in violation of the Eighth Amendment and the Sixth Amendment of the United States, as applied by the Fourteenth Amendment of the United States Constitution.

THE COURT: Overruled.

What's the next one?

MR. BUTLER: Ramon Salinas.

THE COURT: Ramon Salinas,

Raise your right hand.

(Whereupon, the witness was sworn.

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THE COURT: All right, now, it's my understanding that the State seeks to introduce by the testimony of Mr. Salinas the general reputation of the Defendant, David Wayne Spence, for being a peaceful and law-abiding citizen in the community in which he resides, is that correct?

MR. BUTLER: That's correct, Your Honor.

THE COURT: And the Defense wishes to question you concerning that.

MR. HUNT: That's correct, Your Honor.

THE COURT: All right.

RAMON SALINAS

recalled as a witness, and having been first sworn, testified as follows, to-wit:

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

BY MR. HUNT:

O Ramon, would you state your name for the record, please, sir.

A Ramon Salinas.

O Okay. Ramon, as the Judge just explained, you're here, we understand, because you're going to testify to the general reputation of David Spence in the community. Do you understand that?

A Yes.

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Q First of all, are you familiar with David Spence's reputation, prior to the offense for which he stands charged, in this community?

A Yes.

Q Okay. And how are you familiar with that reputation, Ramon?

A With a prior case that I investigated.

Q Okay. Now, I would expect, then, that you interviewed witnesses in that regard, is that correct?

A Yes.

Q Okay. Can you tell me whether or not you've talked to any of those witnesses, in reference to David's reputation?

A Yes. I did.

Q And which witnesses did you talk to?

A I will have to go back to that report and find the names, I don't remember them, at this time.

Q Okay.

MR. HUNT: Your Honor, I'm going to ask that the State provide Detective Salinas with that report, so that he can do that.

MR. BUTLER: May it please the Court, there is no requirement that he elicit specifically all the names. All he has to be is sure that he's talked to people and

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2 that he's familiar with the general reputation.

3 THE COURT: I sustain the objection.

4 BY MR. HUNT:

5 Q Ramon, how many people did you talk to about David's
6 reputation?

7 A Anywhere between ten and 20 people.

8 Q Okay. Can you recall what specific questions you asked
9 them, in regard to David's reputation?

10 A About knowing him.

11 Q Whether they knew him?

12 A Whether they knew him and how they knew him, how they
13 ran around with him.

14 Q Now, my specific question has to do with his reputation
15 in the community prior to the lake murders. Can you tell
16 me if, when you talked to them, you talked to them about
17 his reputation, as it existed prior to the lake murders?

18 A As it existed prior?

19 Q Yes.

20 A The only thing I can tell you about his reputation, what
21 the people said --

22 Q Okay.

23 A -- that he was a bad guy, he was a bully.

24 Q All right. And did you talk to -- you talked to them
25 after the Aggravated Sexual Abuse offense, is that

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correct?

A I talked to some more, yes, after. On this case now.

Q Okay. Did you talk to anybody -- okay, let's back up. When is the first time you talked to anybody about David Spence's general reputation?

A It was about the second week of September of '82.

Q Okay. So, that, that was after the Aggravated Sexual Abuse?

MR. BUTLER: Judge, I'm going to object to any more questions about when he talked to him. The only question -- the only thing that's admissible, and the only thing that is pertinent before this Court is, does he know the reputation? It doesn't make any difference when.

MR. HUNT: Your Honor, we would respond to that that the only thing that is important is his reputation prior to the offense in question, not after the offense in question.

THE COURT: Well, I overrule the objection. I'm going to allow the question.

MR. HUNT: Thank you, Judge.

THE COURT: I overrule both objections.

BY MR. HUNT:

Q Go ahead and answer.

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A Will you repeat the question, please?

O Sure. If I can remember it. Can you remember who you talked to about David's reputation, prior to the offense for which he stands charged?

A For one, is Dorothy Miles. I talked to her.

O Okay. Did Dorothy Miles tell you what her understanding of David's reputation was?

A Yes.

O And what was it?

A That he was -- he kind of thought of her as a second mother.

O Uh-huh.

A But, still, she was pretty leery of him, because she couldn't trust him.

O Okay. So, she, then, said he was untrustworthy, is that what you're saying?

A Yes.

O Who else did you talk to?

A I talked to one of her daughters, I can't remember her name.

O Ouida?

A I think that's her. And --

O And did she give you an indication of David's reputation in the community, prior to that offense?

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A She couldn't give me very much. She had been injured in an accident and had some head problems. She couldn't really tell me much about him.

Q Okay. Can you tell me who else you talked to?

A I just can't think right now, sir. I wish I had known you were going to ask me this --

Q Okay.

A And I would have refreshed my memory. Yes.

Q Okay. If the State provides you with a copy of an offense report, that I assume they have in their possession, would you be able to answer those questions?

A I probably would. Yes.

Q Okay.

MR. HUNT: Again, Your Honor, we would request that the State provide him with a copy of that report, so he can answer my questions.

MR. FEAZELL: Judge, we have already objected to that, the objection was sustained. All that is required is, that Detective Salinas be familiar with the Defendant's reputation in the community, not who he talked to, or even when he talked to them, as long as it is independent of anything to do with him having done the lake murders. Based on other evidence and other hearsay, besides the fact that David Spence did the lake murders.

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And I believe that has been established.

MR. HUNT: Your Honor, the only way I can test the credibility or knowledge of this witness is, if he can give me specific dates. And without his offense report, he has stated that he cannot do that. That is why I am asking that he be provided with it.

MR. BUTLER: Judge, the question is, "Does he know the general reputation?" Not the specifics.

THE COURT: I understand.

He has got a right to question whether -- the basis -- if he wants to.

If you will get something and refresh your memory. Do you know where you can get it?

A I believe I do, sir.

O All right.

MR. HUNT: Thank you, Your Honor.

THE COURT: Any other questions, at this time?

MR. HUNT: No, Your Honor.

But I can't finish the questioning, without him having that information.

THE COURT: All right.

Well, if you will, step down and see if you can get that information and refresh your memory.

THE WITNESS: Yes, sir.

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MR. BUTLER: Judge, I will go with him to get
it.

(Whereupon, Court stood at ease
(momentarily, following which, the
(trial continued as follows, to-wit:

THE COURT: All right, go ahead.

BY MR. HUNT:

Q Ramon, have you had a chance to review your report, so
that you now have your recollection refreshed?

A Yes, sir.

Q Okay. I think my specific question was, can you tell me
who you talked to about the general reputation of David
Spence in the community, which reputation had to do with
events that occurred before the lake murders? Can you
tell me who you talked to in the community?

A Cindy Click.

Q Cindy Click. Okay.

A Known as "Sunshine."

Q Before we go past Cindy Click, what would you say Cindy
Click's reputation is for being --

MR. FEAZELL: Objection, Your Honor.

THE COURT: Sustained.

BY MR. HUNT:

Q Are you familiar with Cindy Click's reputation?

MR. FEAZELL: Objection.

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THE COURT: I sustain that objection.

BY MR. HUNT:

O Would you believe Cindy Click, if she told you something?

MR. BUTLER: Objection, Your Honor.

THE COURT: For the purposes of this hearing,
I sustain the objection.

MR. HUNT: Okay.

BY MR. HUNT:

O Ramon, who else did you talk to besides Cindy Click?

A I talked to David Reyna, Regina Rosenbaum.

O Okay.

A Larry Drollinger.

O Who else, Ramon?

A Robert Coleman.

O Okay.

A Christine Juhl.

O Okay.

A Jimmy Guttilla.

O Okay.

A And that's about all I can remember right now, without
having to go into it.

O Okay. Of course, can you tell me what Robert Coleman told
you about David's reputation in the community?

A He told me that he was afraid of the man.

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Q Okay. Did he tell you -- what did he tell you about David's reputation in the community?

A That he was pretty bad, that he liked to hurt people.

Q Okay. Did he say that that's what David's reputation was in the community?

A Right.

Q Okay. What did Christine Juhl tell you about David's reputation?

A He -- she mentioned that David was a very aggressive person and that he liked to beat up on her.

Q Okay. What did she tell you about his reputation?

A Well, that he couldn't keep a job long enough, from one job to another.

Q What did she say about his reputation in the community, Ramon?

A The only thing that I can tell you about his reputation, that it's bad.

Q Did she specifically tell you that? I'm not trying to be obstinate, Ramon. I'm asking, because the question has to do with his reputation in the community. Not specific bad acts, but only what she told you about his reputation.

A Okay. I didn't ask her specifically about his reputation in the community, and her answer telling me that it's

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bad. That's just what I interpret from her telling me
that this was a bad guy.

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O Okay. Again, I missed part of what you said, and that's
my fault. Are you saying you didn't talk to her about
David's general reputation?

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A I didn't ask her specifically like you're asking me --

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O Yes, sir.

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A -- what is his reputation in the community?

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O Sure.

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A I did not ask her that specific question.

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O Okay. And she did not specifically give you a response
to that? Rather, she told you about some prior bad act
that he had done, is that correct?

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A That's right.

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O Okay. Tell me what Jimmy Guttilla said, if anything,
about David's reputation in the community.

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A It's basically about the same as what Christine Juhl said.
You know, that he was afraid of the man, that he liked to
go out on the town and show off and be a bully.

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O Okay. But you did not specifically talk to him about
David's reputation?

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A I did not.

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O Okay. Let's go back to Robert Coleman, because I'm not
sure if I asked you that question. Did you talk speci-

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2 fically to Robert Coleman about David's reputation in
3 the community?

4 A No, sir.

5 MR. BUTLER: Judge, at this point in time, I'm
6 going to object to him going into the specific content
7 of Detective Salinas' testimony. He's entitled to find
8 out the basis of the reputation, and that's all. The
9 basis of --

10 THE COURT: Sustained.

11 MR. BUTLER: -- the officer's knowledge. And
12 I would request that the Court instruct him to cease this
13 line of questioning.

14 THE COURT: I sustain the objection.

15 MR. HUNT: Your Honor, if I could respond to
16 that.

17 The only way that this witness can testify, is
18 if people tell him that they're aware of the general repu-
19 tation of the Defendant in the community. It doesn't
20 have anything to do with prior bad acts that they have
21 done, it's their knowledge of his general reputation.

22 THE COURT: I sustained --

23 MR. BUTLER: May it please the Court, all of
24 these things go to make up the general reputation. And
25 the question is, does this officer know his general

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reputation.

THE COURT: All right.

I sustained the State's objection.

MR. HUNT: Now, Your Honor, do I understand that you're sustaining the State's objection, to refuse to permit me to go into the same line of questioning, relative to --

THE COURT: Well, you have asked him about every -- a bunch of these folks, and he has told you what they told him.

What other questions are you wanting to ask?

MR. HUNT: Your Honor, I want to go specifically into those same questions, in reference to Cindy Click, David Reyna, Regina Rosenbaum and Larry Drollinger.

MR. FEAZELL: And we would object to that, Your Honor. He doesn't have the right to preview his cross examination, but merely to test the qualifications of this witness. And it is not for him to have to tell every specific thing that he was told, but that he talked to certain people, and from the information he gathered, he came to the conclusion and the opinion concerning the reputation of the Defendant.

THE COURT: Did you talk to the other people that he has named?

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THE WITNESS: Yes, sir.

THE COURT: And is that the basis of your opinion? At least part of the basis of your opinion of what they stated, in reference to his reputation?

THE WITNESS: Yes, sir.

THE COURT: And what you're telling the Court, that you have talked to various and sundry people that you have named. Have you talked to other people, and you don't remember their name?

THE WITNESS: Yeah. I've talked to some more. I can't remember what their names are.

THE COURT: And was that general reputation, was it good or bad?

THE WITNESS: It was bad.

THE COURT: For being a peaceful and law-abiding citizen?

THE WITNESS: Yes. Bad.

THE COURT: Have ya'll got any other questions?

MR. HUNT: Your Honor, I would go into all of the rest of the questions I just outlined, unless the Court --

THE COURT: I sustained the State's objection.

MR. HUNT: Your Honor, on that basis, we would object to the Court's ruling, on the grounds that it

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2 refuses to permit us to establish a record, unless you
3 let me go into those same questions, in order to establish
4 a record, as per 40.09 of the Texas Code of Criminal
5 Procedure.

6 THE COURT: Go ahead.

7 MR. HUNT: Okay.

8 BY MR. HUNT:

9 O Ramon, you said you talked --

10 MR. BUTLER: May it please the Court, I'm going
11 to request that he be allowed to make this record after
12 the testimony in front of the jury. Otherwise, he is
13 previewing the entire testimony.

14 MR. HUNT: Your Honor, I would insist on making
15 it now.

16 MR. BUTLER: He is not entitled to preview the
17 testimony, Your Honor, and preview the cross examination.
18 He's not entitled to do that. He is entitled to make a
19 record, and the Court can allow him to make a record
20 afterward.

21 THE COURT: I'm going to let him go ahead and
22 make it now.

23 MR. HUNT: Thank you.

24 BY MR. HUNT:

25 O Ramon, tell me what Cindy Click told you? Did you

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specifically talk to Cindy Click about David Spence's reputation in the community? I'm not asking you for bad acts that she told you about. I'm asking you whether you specifically talked to her about David Spence's reputation in the community?

A Not specifically. No. Just like the other one.

O Okay. Is that also true of David Reyna, Regina Rosenbaum, and Larry Drollinger? You did not ask them about David Spence's reputation in the community? Rather, they told you, or related to you, bad acts, and you formed an impression of David Spence's reputation, based on that?

A That's correct.

O Okay. Is that also true of other witnesses that you talked to? Rather, you did not go to them and say, tell me about David's reputation? They did not tell you David's reputation? Rather, they told you about specific bad acts that David had done, is that correct?

A That's correct.

O All right.

MR. HUNT: Your Honor, on that basis, we would object to any testimony by this witness. He has just said that he is not familiar with David Spence's general reputation among those people. Rather, he has formed an

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2 idea of David Spence's reputation, based on prior bad
3 acts. And on that basis, we would object to his testi-
4 mony.

5 THE COURT: All right.

6 Does the State have anything?

7 MR. BUTLER: Judge, it's our position that he
8 has amply demonstrated, he is very aware of the reputa-
9 tion, the general reputation of David Wayne Spence, for
10 being a peaceful and law-abiding citizen, by the number
11 of people he talked to, both that he can remember and
12 that he can't. There is no requirement that he ask any
13 or all of those people as to the specific question, "Do
14 you know his reputation for being a peaceful and law-
15 abiding citizen?"

16 THE COURT: All right.

17 Well, I'll overrule the objection.

18 You may step down.

19 MR. HUNT: Your Honor, we would object to the
20 Court's ruling, on the basis of the prior stated grounds.
21 And that is, that it's in violation of the Eighth, Sixth
22 and Fourteenth Amendments of the United States Consti-
23 tution.

24 THE COURT: All right.

25 I overrule it.