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MR. HUNT: Yes, sir.

THE COURT: Thank you, Ms. Sims.

MR. HUNT: Your Honor, again, as the witness is approaching the witness stand, the Defense would object to any questions or responses, based on the fact that we believe this witness will testify to the general character of the Defendant in the community. We would object to any such questions or testimony, on the basis of it being a violation of the Defendant's Sixth, Eighth and Fourteenth Amendment rights to due process and confrontation of witnesses and cruel and unusual punishment.

THE COURT: Overrule the objection.

MR. HUNT: Your Honor, again, if we could have a running bill on this, with the understanding that we are not only objecting on this basis, we are also moving the Court for a mistrial, based on any kind of responses he would make to these questions.

THE COURT: All right. And I will grant you your running bill.

MR. HUNT: Thank you, Your Honor.

THE COURT: All right.

RAMON SALINAS

recalled as a witness on behalf of the State of Texas, and

1
2 having been previously sworn, testified further, as follows,
3 to-wit:

4 FURTHER REDIRECT EXAMINATION

5 BY MR. BUTLER:

6 Q State your name, please.

7 A Ramon Salinas.

8 Q You're the same Ramon Salinas who's testified previously
9 in this trial, are you not?

10 A Yes. I am.

11 MR. HUNT: Excuse me, Your Honor.

12 I left out one objection. And that was, that
13 the responses calls for hearsay from this Defendant. I
14 would like to include that in my running bill.

15 THE COURT: All right.

16 So granted.

17 MR. HUNT: Thank you, Your Honor.

18 BY MR. BUTLER:

19 Q Detective Salinas, do you know David Wayne Spence?

20 A Yes. I do.

21 Q Is he present in the courtroom today?

22 A Yes. He is.

23 Q Would you identify him, please?

24 A The gentleman here in the grey suit between the two
25 attorneys.

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

THE COURT: The record will so reflect.

BY MR. BUTLER:

O Detective Salinas, do you know his reputation in the community in which he resides and among the people with whom he associates for being a peaceful and law-abiding citizen?

A Yes. I do.

O Is that reputation good, or is it bad?

A It's bad.

MR. BUTLER: Pass the witness.

MR. HUNT: We have no questions, Your Honor.

THE COURT: You may step down, Mr. Salinas. And you may be excused.

MR. HUNT: Your Honor, again, I would re-urge all of the objections I have previously made. And, again, at this time, I would urge the Court for a mistrial, on that basis.

THE COURT: Overruled.

MR. FEAZELL: Your Honor, at this time, we would offer for the jury's consideration, all of the prior testimony in the case in chief.

THE COURT: All right.

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MR. FEAZELL: And at this time, Your Honor, we have a matter that must be taken up outside the presence of the jury.

THE COURT: All right.

Ladies and Gentlemen, I think I will recess you, and I'll recess you back to the jury room. I will recess you for 15 minutes.

(Whereupon, the jury was retired from the courtroom and out of the presence and hearing of the jury the following proceedings were had, (to-wit:

THE COURT: All right, call your next witness.

We're outside the presence of the jury, now, I want the record to reflect.

MR. FEAZELL: Your Honor, the State calls Ms. Lisa Kader.

THE COURT: Lisa Kader.

MR. FEAZELL: This is her.

THE COURT: Oh, I'm sorry.

Do you want to raise your right hand.

(Whereupon the witness was sworn.

LISA KADER

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

933

DIRECT EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. FEAZELL:

Q Your name is Lisa Kader?

A Yes, sir.

Q Okay. Now, Lisa, I'm going to ask you a few questions, and then afterwhile, you may have to answer some more questions in front of the jury, okay?

A Okay.

Q Lisa, did you live in Waco in the summer of 1982?

A Yes, sir.

Q And during that time, did you have an occasion to meet a man named David Wayne Spence?

A Yes, sir.

Q And do you see David Spence in the courtroom?

A Yes, sir.

Q Is he the one sitting there in the grey suit between the two lawyers?

A Uh-huh.

Q Okay. Lisa, during the summer of 1982, were you raped by David Spence?

A Yes, sir.

Q Now, I don't believe that was ever taken to trial or anything, was it?

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A No, sir.

Q You didn't call the police about the rape?

A No, sir.

Q Why didn't you?

A I was scared.

Q Scared of who? Scared of who?

A David Spence.

Q Okay. Did you later tell the police about the rape?

A Yes, sir.

Q And about when was it that you told the police?

A About August -- about in the middle of August. I don't remember the correct date. I just remember it was some-time in August.

Q All right. And when was it, thereabout, that you were raped by David Spence?

A On a Saturday. I don't remember the date.

Q Was it also in August?

A Yes, sir.

Q Early August?

A Yeah.

Q Okay.

MR. FEAZELL: Pass the witness, Judge.

CROSS EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. HUNT:

Q Lisa, how old are you?

A I'm 19.

Q How old were you at the time of this alleged rape?

A Seventeen.

Q Okay. And where is it supposed to have happened?

A At his house.

Q Where was that?

A It was close to the Methodist Home.

Q It was his house?

A Yeah. I think it was.

Q Do you know what street it was?

A No.

Q Okay. Was there anybody else there?

A No.

Q Just you and David?

A Yes, sir.

Q Okay. Did you talk to the police about it?

A Right after it happened?

Q Uh-huh.

A No.

Q Did you ever talk to the police about it?

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2 A Yeah. I talked to the detective later.

3 Q Which detective did you talk to?

4 A Detective Dennis Baier and...

5 Q Salinas? Maybe Salinas?

6 A No. It was another guy.

7 Q Do you remember what his name was?

8 A Sims. Simmons.

9 Q Simons?

10 A Yes.

11 Q Okay. When did you talk to Baier and Simons?

12 A About maybe a couple of weeks after it happened.

13 Q Okay. That's the first time you told any police officer
14 about it?

15 A Yes, sir.

16 Q Did you tell anybody else about it before that?

17 A Yes, sir. I told my other girl friend that night.

18 Q Okay. Who was the girl friend?

19 A Faye Pearson.

20 Q Okay. After you told Baier and Simons, what was done
21 about it?

22 A Well, nothing.

23 Q Why?

24 A I don't know. I just wanted to forget about it.

25 Q Did you tell them you just wanted to forget about it?

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A Uh-huh. Because I didn't want to start no trouble, and I was scared. I didn't want anybody coming looking for me, or anything. So, I just kept my mouth shut.

Q Did you keep your mouth? Or what did you tell them about it?

A What? The detectives?

Q Yeah.

A I just told them that we went out and --

MR. FEAZELL: Your Honor, I'm going to object to the witness, at this time, having to go into everything that she told the detectives. It's enough that there was an outcry.

THE COURT: I overrule the objection.

BY MR. HUNT:

Q What did you tell the detectives about it?

A I just told them the truth.

Q Which was what?

A Which was that I got sexually abused.

Q You got sexually abused?

A Uh-huh.

Q Okay. Now, explain to the Court what you're talking about, when you say you got "sexually abused".

A Well, I was made to have sex.

Q Tell me how David Spence made you have sex.

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A Well --

MR. BUTLER: Judge, I'm going to object to her having to preview the testimony for the Defense attorney on the admissibility.

MR. HUNT: Your Honor, there's no way I can question her without her having to answer these questions. I can't prove this up without her answering these questions.

THE COURT: I overrule the objection.

MR. HUNT: Thank you, Your Honor.

BY MR. HUNT:

Q Lisa, you can go ahead and answer my question.

A I was just scared. And I --

Q Why were you scared?

A Why was I scared?

Q Yes.

A Because he was talking -- he wasn't acting like the same guy that I had known at the store.

Q Okay. How long had you known him?

A Huh?

Q How long had you known him?

A I had just seen him a couple of times at the store.

Q Okay. And what do you mean, "He wasn't acting like the same guy"?

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A He just wasn't. He was acting like a completely different person.

Q Well, how was he acting like a completely different person?

A He was talking real different.

Q Like how?

A Well, he was saying -- he used the name "Chilly."

Q Okay.

A And he said "Chilly" don't hurt you, if you don't hurt me. And he was just talking, "Chilly" will be good to you, if you will be good to "Chilly." And he just had a real weird look in his eyes. He wasn't the same guy that I knew.

Q Okay. Up to that time, you had had sex with numerous people, is that correct?

A No.

MR. BUTLER: Objection, Your Honor. That's outside the scope.

THE COURT: Sustained.

BY MR. HUNT:

Q Had you ever had sex with any --

MR. BUTLER: Objection, Your Honor. That's not relevant.

THE COURT: Sustained.

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BY MR. HUNT:

Q Tell me how it was that David -- you said David Spence scared you. Tell me what he said that scared you?

A Well, he talked about "The Reaper." And I didn't understand what "The Repeater" was.

Q Okay. What did he tell you about "The Reaper"?

A He just said, "Don't fear 'The Reaper'." And I figured it had something to do with the devil.

Q Okay. I won't -- what I'm looking for, Lisa, is, I want you to tell me what David did that made you so scared that you had sex with him?

A Well, for one thing, he had a knife.

Q Okay. What did he do with the knife?

A He just barely touched me on my chest.

Q Did he say he was going to kill you?

A No, sir.

Q Did he say he was going to cut you?

A I can't remember.

Q Okay. When did he produce the knife? Was that before or after ya'll had sex?

A Before.

Q Okay. Were you still clothed? Did you still have your clothes on?

A I had my shirt up.

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Q Okay. Now, had he raised your shirt, or had you raised your shirt?

A He raised.

Q Okay. Now, tell me how you happened to be there at David Spence's house?

A Well, we were just -- after we had left another location, we just went to his house.

Q Okay. Where were you on the other location? Where was that?

A Cameron Park.

Q What were you doing in Cameron Park?

A Just sitting and talking and drinking.

Q Smoking any pot?

A No, sir.

Q No drugs at all, is that correct?

A Not that I can remember.

Q Okay. What made you decide to go to David's house?

A I didn't decide anything, we just went there.

Q Okay. Didn't talk about it before?

A Not that I can remember. I remember us just showing up there.

Q Okay. Before you went there, did you understand that probably the two of you were going to make it together?

A I had no idea that we were going to be doing anything.

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Q Okay. So, you just went with David Spence, is that right?

A Well, it was me, David, and this couple in the back seat.

Q Okay. Who was the couple in the back seat?

A Faye and Robert Coleman.

Q Okay. Then, all four of you go in the house?

A Yes, sir.

Q Okay. What is the next thing that happened, when the four of you went in the house?

A We sat down for a little bit and drank a few beers. And, then, the two of them went in the bedroom.

Q Okay. "The two of them" meaning Faye and Robert Coleman?

A Yes, sir.

Q Okay. What were they doing in the bedroom?

A Having sex.

Q Okay. And what did you and David do while they were having sex?

A Well, he was being real -- well, aggressive.

Q David was being aggressive?

A Yeah.

Q What do you mean by that?

A Just bothering me.

Q Well, what do you mean by that?

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A Well, trying to get down in my pants and everything.

O What were you doing?

A I was trying to fight it.

Q Okay.

A Because I was scared.

O Did you holler?

A Well, not real loud. But I told him to leave me alone.

Q Okay. What did he do?

A He just said, "You be good to 'Chilly' and 'Chilly' will be good to you."

Q Okay.

A And kept on talking about "Chilly." And I kept on saying -- well, I would accidentally say "David," and he would get real -- say, "Don't call me 'David,' call me 'Chilly'. Don't you ever forget it."

Q Okay.

A And I go, "Okay."

Q Okay. Tell me what you did to resist him?

A Well, I just kept on scooting back and saying, "Would you please leave me alone." And I was just scared. I was real scared. And I didn't know -- I figured the best way to handle it was just to not get too paranoid or too upset.

Q What did Robert Coleman and Faye do? Did you cry out, so

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they could hear you?

A I went in there and I tried to tell them that he was acting strange. But they said, "Leave us alone," you know. And I go, "Okay."

Q Because they were having sex?

A Yeah.

Q So, apparently, you were able to get away from David? I mean, he wasn't grabbing ahold of you? You were able to walk in there, isn't that right?

A Yes, sir.

Q Okay. And, then, you went back to David. And what happened then?

A Well, he started biting on my chest area.

Q Okay. Did he bit you enough to make you bleed?

A He bit me enough to leave a mark.

Q For how long?

A A couple of weeks.

Q Okay. While he was doing what? What else was he doing?

A Had his hand down my pants.

Q Okay. What were you doing, during that time?

A I was just scared and trying to fight him, and I didn't know what to do. I had never been in that position before.

Q Were you hitting him?

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A Was I hitting him?

Q Uh-huh.

A I was scared to do anything, really.

Q Okay. But he didn't have a knife out, or anything, at that time?

A No.

Q Okay. Apparently, Robert Coleman and Faye didn't hear anything going on, is that right?

A Well, they got up and -- no, they didn't hear anything going on.

Q Okay.

A But they got up and they left immediately.

Q When did they leave?

A After they had sex.

Q Okay. And, then, you and David went in the bedroom?

A No. I tried to stop Faye from leaving. And she said, "Aw, I'll be right back." And they just went out the door.

Q So, she, apparently, didn't see any kind of a terrible threat, is that correct? She wasn't scared, was she? She didn't -- you didn't say, go tell the police?

A She didn't really care, at the time.

Q Okay.

A They were too busy going and getting another joint, so

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they could get back.

Q Okay. "Another joint." So, that, they had been smoking marijuana, is that correct?

A Well, they went to get it. I didn't see them smoking it.

Q Okay. Then you and David went in the bedroom?

A No. Then after that, I was really scared. And then --

Q Let me ask you this, Lisa, you didn't leave with Faye, did you?

A No, sir.

Q Okay.

A I was told not to.

Q You stayed there. You were told not to?

A Uh-huh.

Q Was any threat made to you?

A Yes.

Q What was the threat?

A I felt threatened.

Q You felt threatened. What did David say to you?

A He said I had better not go with Faye, to stay here with "Chilly."

Q Okay. And, so, you stayed there with "Chilly," is that correct?

A Yes, sir.

Q Okay. Then, how did you and David wind up in the bedroom?

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A I was scared into it.

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Q You were scared into it?

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A Yes.

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Q Did David say, I'm going to slit your throat, if you don't go in there and have sex with me or something?

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A No. He didn't. Earlier that night he had made remarks of going in the woods and stuff.

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Q Of going in the woods?

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A Uh-huh.

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Q What does that mean?

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A Well, I had thought about the killings, and I didn't want to go.

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Q You didn't want to go?

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A And he told me not to be afraid to die.

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Q Okay. All right. So, you implied -- you received that as a threat, is that what you're saying?

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A Yes.

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Q Okay. So, you didn't go with Faye, and sometime after that, you and David had sex. Where were you when you had sex?

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A In the bedroom.

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Q Okay. How did you get in the bedroom? Did you walk back there?

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A No. Actually, right before that, was whenever he was --

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He had the knife.

Q Okay.

A And he was playing with my chest.

Q Okay. And what did he say when he was playing with your chest, Lisa?

A He said, "You be good to 'Chilly' and 'Chilly' will be good to you."

Q Okay. Is that all he said?

A Yes. And I felt threatened and I felt scared.

Q Okay. What was he doing, when you said, "playing with" your "chest," you were talking about?

A He had a knife. And he had stuck a knife in the door. And, then, he started messing with my chest with another knife. And I felt like, if I didn't -- I was scared. I felt like if I didn't do anything, I would get killed.

Q Okay. What do you mean he was "messing with" your "chest"?

A He was just barely touching me with it. He wasn't poking me or anything with it.

Q Okay. What kind of knife was that?

A It was a kitchen knife.

Q A butter knife?

A A steak knife.

Q A steak knife?

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2 A Yeah.

3 Q Okay. How did you happen to get in the bedroom?

4 A I felt threatened, so I felt like I had to go in there.

5 Q Okay.

6 A Or else I was going to get hurt.

7 Q Did he grab you by the hand and drag you in there? Or
8 did the two of you walk in hand-in-hand? Or did you just
9 walk in there?

10 A I don't really remember, sir.

11 Q Okay.

12 A But I remember I felt threatened.

13 Q Okay.

14 A And I remember being made to have sex with him.

15 Q Okay. And how did he make you have sex with him?

16 A He hit me and called me a "bitch" and a "cunt" and a
17 "slut".

18 Q Okay. When did he do that?

19 A When we were having sex.

20 Q While you were having sex, he did that?

21 A Uh-huh.

22 Q What did he do before you were having sex?

23 A Before?

24 Q Yeah.

25 A He was scaring me and talking all kinds of crazy stuff.

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about "Chilly."

Q What did he say?

A "You be good to 'Chilly' and 'Chilly' will be good to you. You cooperate."

Q Okay. Is that his word, "cooperate"?

A Yes, sir.

Q Or did he use a different word?

A I felt threatened.

Q Okay. You felt threatened?

A Because of "Chilly," and the way he was acting.

Q Okay. Then ya'll started having sex, and while you were having sex, he started slapping you and calling you names, is that right?

A Yes, sir.

Q But it was while you were having sex?

A Yes, sir. I was scared.

Q Where was the knife, during this time?

A The knife?

Q Uh-huh. Was it still in the door?

A There was a knife -- I don't remember what he did with the knife that he was playing with my chest with.

Q Okay. And what do you think he did with it?

A I figured that he still had it with him in the bedroom.

Q Well, did he have his clothes on, or something?

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2 A He took them off.

3 Q Well, then, how did you figure he had the knife, if he
4 didn't have any clothes on?

5 A Because I had thought that he had had it in his pocket --
6 back pocket.

7 Q Okay.

8 A He put it in his back pocket.

9 Q He had a back pocket, without having any clothes on?

10 A No. Before he took his clothes off, I thought he had
11 put it back in his back pocket.

12 Q Oh, okay. So, then, ya'll went in the bedroom and
13 started having sex. And during the time you were having
14 sex, he started slapping you and calling you names, is
15 that correct?

16 A Yes, sir.

17 Q Okay. And after you were finished having sex, what
18 happened?

19 A Faye and Robert showed up. And I asked him if I could
20 get my clothes on, and he said, "Yes. You was good to
21 'Chilly,' so 'Chilly' ain't going to hurt you."

22 Q Okay. Now, did you get your clothes on?

23 A As quick as I could.

24 Q Okay. And, then, what happened?

25 A And, then, I went and made my way toward the car, and

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he tried to stop me.

Q Okay. Then what happened? How did he try to stop you?

A By saying he wanted to take me off somewhere, and he didn't want to take me back to the home unit.

Q Okay.

A Because he wanted to take me off. And I don't know. He didn't want to take me back, and he wanted to take me off somewhere far away. And it was scaring me. And I said, "Please, just take me home, I just want to go home."

Q Okay. Did he take you home?

A We stopped at the Amarillo Club.

Q Okay. What happened at the Amarillo Club?

A He just ran in and ran out.

Q Okay.

A And while he was in there, I tried to tell Faye and Robert how he was acting. And Robert was saying, "Just play your cards right and he won't hurt you."

Q Okay.

A So, that's what I did.

Q Okay. Then, did he take you back home?

A And, then, after that, yes, he did.

Q Okay. When did you tell Faye? Is it Faye that you told?

A Uh-huh.

Q And when did you tell her what happened?

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A That night.

Q Okay.

A And she didn't seem to care. And she just said, "Well, that mother fucker." And I said, "Well, do you think I should say anything? And she said, "Hell, no. You had better not, he'll come looking for your ass and he'll kill you, he's crazy."

Q Okay. So, you didn't tell any houseparents, or anything like that?

A No, sir.

Q Finally, a couple of weeks later you told the police, and the police didn't do anything about it?

A Yes. They did something about it. They wanted me to write a statement. And, so, that I did. And I didn't press any charges.

Q Did you tell them --

A Because I just didn't want any -- I just wanted to forget about it, and I just didn't want anybody to hurt me.

MR. HUNT: Your Honor, at this time, we would ask for the statement of the witness that was given to the policeman.

MR. FEAZELL: Your Honor, she didn't give a statement. She talked to the police and the police took some notes.

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THE WITNESS: Yes.

THE COURT: Did you give a written statement, or did you just talk to them and they took some notes?

THE WITNESS: I just talked to them and they took notes.

THE COURT: All right.

MR. HUNT: That's all the questions we have.

THE COURT: Did you have any other questions?

REDIRECT EXAMINATION
(OUT OF THE PRESENCE OF THE JURY)

BY MR. FEAZELL:

Q Lisa, were you scared and were you crying?

A Yes, sir.

Q Did he slap you and pull your hair?

A Yes, sir.

Q Did he tell you to go into the bedroom?

A Yes, sir.

Q How did he tell you that?

A He said, "'Chilly' wants you to go in the bedroom. If you be good to 'Chilly,' 'Chilly' will be good to you."

Q Were you afraid?

A Yes, sir.

Q Why didn't you try to run out, or anything like that?

A Because I was afraid. I was afraid he would grab me and

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kill me.

Q Okay. Why didn't you tell Faye and Robert when they were leaving what was going on?

A Because I was afraid he would kill all of us.

Q Okay. You were that scared of him?

A Yes. I was.

Q Okay.

MR. FEAZELL: That's all, Judge.

MR. HUNT: We don't have any other questions.

But we would object to any of the testimony, based on the fact that it is not rape, as rape is defined by the statute, based on either one of the first two grounds. And that is, that there is no evidence that David Spence compelled her to participate by force. There is evidence that there was force used during the act of sex, but not prior to. There's no evidence of any force that was used that might overcome such earnest resistance that might reasonably be expected under the circumstances.

So, we would object to that as any -- any introduction of any of this prior bad act of the Defendant.

THE COURT: I overrule the objection.

MR. HUNT: Your Honor, we would also object to any testimony of this nature, because it is violative of

1 Defendant's rights to a presumption of innocence of the
2 bad acts alleged, his right to be informed of the
3 charges against him, and his right to confront witnesses,
4 based on the Sixth and Fourteenth Amendments of the
5 U. S. Constitution.

6 THE COURT: All right, sir.

7 And I overrule your objection.

8 Ask the jury to come back in.

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

12 THE COURT: All right, go ahead.

13 MR. HUNT: Your Honor, prior to the questioning
14 beginning by the State, the Defense will move to, first
15 of all, exclude the testimony of this witness.

16 And, secondly, we're going to object to any of
17 the questions asked and responses made, based on the
18 fact that the questions and responses are going to vio-
19 late the Defendant's right to a presumption of innocence
20 of the bad act alleged by this witness, his right to be
21 informed of the charges against him, and his right to
22 confront witnesses, based on the Sixth and Fourteenth
23 Amendments of the Constitution.

24 The Defendant would also urge the Court that
25 this is violative of his due -- of the Due Process Clause

1 of the Fourteenth Amendment, in that it surprises the
2 Defendant, that this witness is going to come forth, and
3 violate his right to an impartial jury, as guaranteed to
4 him by the Sixth and Fourteenth Amendments of the United
5 States Constitution, in that he has not had an oppor-
6 tunity to interrogate the jurors as to their prejudices
7 or biases pertaining to the alleged acts of the Defendant,
8 and of which evidence is now attempting to be presented.

9 We would urge the Court, on those bases, to
10 exclude this testimony, and if the Court refuses to
11 exclude this testimony, we would ask for a running bill
12 on those bases.

13 THE COURT: All right.

14 I overrule your objections. I will grant you
15 a running bill.

16 MR. HUNT: Your Honor, I would like to add to
17 that fact, that none of this -- the Defendant was not
18 given notice of any of these acts in the indictment that
19 has been filed against him. And ask that that be
20 included in the running bill.

21 THE COURT: All right, sir.

22 So granted.

23 MR. HUNT: Thank you, Your Honor.

24 THE COURT: Go ahead and ask your questions.
25 You have already been sworn.

FURTHER REDIRECT EXAMINATION

BY MR. FEAZELL:

Q He said, you're already under oath, and you remember that.

A Okay.

Q Okay. Now, I need for you to speak up loud enough so that everybody on this jury can hear you. All right?

A Okay.

Q I'm going to need for you to talk louder than that.

A Okay.

Q And address your remarks to the jury. Will you state your name, please?

A Lisa Janette Kader.

Q How old are you, Lisa?

A Nineteen.

Q Lisa, did you live in Waco, Texas, during the summer of 1982?

A Yes, sir.

Q And where were you living?

A At the Methodist Home.

Q You were a resident of the Methodist Children's Home during the summer of 1982?

A Yes.

Q Lisa, during the summer of 1982, did you have an occasion

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to meet a man by the name of David Wayne Spence?

A Yes, sir.

Q Did you know him well, or had you just seen him casually?

A Seen him casually.

Q Where was it that you saw him?

A At Rainbow's Drive-In.

Q Did you see him there very often?

A No, sir. Just -- well, yes, sir. He hung around there quite frequently.

Q Okay. And would you go over there to buy Cokes and cigarettes and things like that?

A Yes, sir.

Q Did you ever talk with David Spence over at the Rainbow store?

A No, sir.

Q Did you have an occasion to talk with David Spence later in the summer?

A Yes, sir.

Q Was that on a Saturday night sometime in early August?

A Yes, sir.

Q Tell the jury how you first came in contact with David Spence on that Saturday night?

A By a friend.

Q Okay. And what do you mean by "a friend"?

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2 A Faye Pearson set me up with him on a date.

3 Q Okay. And who was Faye Pearson?

4 A She was my roommate.

5 Q At the Methodist Home?

6 A Yes, sir.

7 Q Was Faye Pearson also going out on a date?

8 A Uh-huh.

9 Q And who was she going out with?

10 A Robert Coleman.

11 Q Was this to be, then, a double date?

12 A Yes, sir.

13 Q Of sorts. Do you know whether or not Mr. Spence had been
14 approved as a date out at the Methodist Home?

15 A He was not approved.

16 Q Okay. So, how is it that you came to go out with him
17 that night?

18 A Well, we said we was going out with Robert.

19 Q "We" meaning you and Faye?

20 A Yes, sir.

21 Q Who did ya'll tell that you were going out with Robert?

22 A Homeparents.

23 Q The houseparents?

24 A Yes, sir.

25 Q So what happened? Did they come and pick you up?

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2 A Yes, sir.
3 Q Okay. How did they come to pick you up?
4 A David was driving, and he came and picked us up.
5 Q Did David come inside to get you?
6 A No, sir.
7 Q Wait outside?
8 A Uh-huh.
9 Q Okay. And, so, the way I see it, you and Robert and
10 Faye then walked out to the car?
11 A That is correct.
12 Q What happened after ya'll got in the car, Lisa?
13 A We went and got some beer.
14 Q Went and bought some beer?
15 A Uh-huh.
16 Q Do you remember where?
17 A At Conaco.
18 Q Okay. Who bought it? Do you remember?
19 A Robert and David.
20 Q Okay.
21 A Went in and got it.
22 Q And David was still driving?
23 A Yes, sir.
24 Q Where were you sitting in the car?
25 A On the passenger's side.

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2 Q In the front?

3 A Yes, sir.

4 Q With David?

5 A Yes, sir.

6 Q The other two in the back?

7 A Yes, sir.

8 Q What happened after the beer was bought?

9 A Well, he was scaring me by the way he was driving.

10 Q Who, David?

11 A Yes, sir.

12 Q How was he driving?

13 A Like a drunk driver, just running all over the road. And
14 we almost -- we could have gotten killed, by the way he
15 was driving.

16 Q Okay. So, you started out a little bit scared from the
17 way he was driving. Where did ya'll drive to?

18 A Cameron Park.

19 Q Where in Cameron Park did you go?

20 A Where the band usually plays music, that.

21 Q What did you do when you got to Cameron Park?

22 A We -- Faye and Robert got out of the car and they went
23 and sat on the benches where the bands play. And we --

24 Q How far is that, Lisa, from where the car was?

25 A Just a few feet.

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Q Not too far?

A No, sir.

Q Shouting distance?

A Yes, sir.

Q But could people sitting on the bench overhear what was being said at the car?

A No, sir.

Q It was further than that?

A Yes, sir.

Q Okay. Tell the jury about what time it was, if you can remember.

A It was around 7:30.

Q Okay. Starting to get a little bit dusk?

A Yes, sir.

Q All right. So, Faye and Robert went to the benches and sat down. What happened? What did you do?

A He told me to bend over and get him a beer.

Q Okay. Ya'll were still at the car?

A Yes, sir.

Q Who told you to bend over and get him a beer?

A "Chilly."

Q Now, you say "Chilly." Who are you talking about when you say "Chilly"?

A David.

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Q Now, why do you call him "Chilly"?

A Because he wanted to be called "Chilly."

Q Did he tell you to call him "Chilly"?

A Yes, sir.

Q Lisa, do you see David Spence in the courtroom today?

A Yes, sir.

Q Will you point at him, please?

A (Indicating.)

Q All right.

MR. FEAZELL: Your Honor, may the record reflect that Ms. Kader has identified the Defendant?

THE COURT: The record will so reflect.

BY MR. FEAZELL:

Q How was it that he told you to call him "Chilly"?

A He said, "My name is not David, it's 'Chilly'." And I had always known him as David, and "Chilly" was new to me.

Q You mean you knew his name was David?

A Uh-huh.

Q But I believe you said you hadn't really talked to him before?

A No. I hadn't. But, you know, I had heard his name was David, and that's who I was told I was going out with. But he told me, "Don't call me David, call me 'Chilly'."

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2 Q Okay. Then what?

3 A And, then, after that, we got out of the car.

4 Q Okay. Were you still in the car when he said, "Get me a
5 beer."?

6 A Uh-huh.

7 Q How did he tell you to get him a beer?

8 A He said, "'Chilly' wants a beer."

9 Q And what did you do?

10 A Well, I bent over and got him a beer, and he hit me.

11 Q He hit you?

12 A Yes.

13 Q How come?

14 A From behind. Well, just joking, I guess.

15 Q You mean he hit you on the rear?

16 A Yes.

17 Q Okay. What did you do?

18 A I just went and I got him a beer and I gave it to him.

19 Q Okay. But, I mean, when he hit you on the rear end, did
20 you do anything?

21 A I just -- well, I was a little bit tipsy, at the time,
22 and I just kind of hesitated.

23 Q And went ahead and gave him the beer.

24 A Yes, sir.

25 Q All right. So, you were drinking too?

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A Uh-huh.

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Q And how old were you?

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A Seventeen.

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Q Okay. What else happened there at Cameron Park?

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A Well, he wanted to go take me out in the woods -- take a stroll out in the woods.

6

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Q Now, you say he wanted to take a stroll out in the woods.

8

How do you know that?

9

A Because he asked me.

10

Q How did he ask you?

11

A He said, "Do you want to go out in the woods with 'Chilly'?" And I said, "No. Because of what happened to my friends."

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Q What friends were you talking about?

15

A Ken and Jill.

16

Q You knew them?

17

A Yes, sir.

18

Q Okay. "No. Because of what happened to my friends."

19

What happened when you said that?

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A He said, "'Chilly' won't hurt you. Don't be afraid to die, or don't fear 'The Reaper'."

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Q "Don't fear 'The Reaper'"?

23

A Yes, sir.

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Q Did you know what he meant by the word "Reaper"?

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2 A No, sir. I heard it on a song, that's it.

3 Q Okay. But he told you, "Don't be afraid to die."?

4 A Yes, sir.

5 Q Okay. Well, what happened, Lisa?

6 A I got scared.

7 Q Well, and what did you do?

8 A Well, then, I started saying to myself, oh, Lord, what's
9 going to happen next? And, then, I was having my doubts
10 about what was going to happen.

11 Q Uh-huh.

12 A And I kept on asking him what "The Reaper" meant? And
13 he said he wouldn't tell me. So, I just kept on asking
14 about it. And he never did tell me what it meant.

15 Q Was it getting darker, at that time?

16 A Yes, sir.

17 Q Did David have on sunglasses, or not?

18 A Yes. He had on sunglasses.

19 Q Did anything come up about the sunglasses?

20 A Yeah. I told him to take them off.

21 Q How come?

22 A Because I wanted to see his eyes.

23 Q All right. Did he take them off?

24 A Yes, sir. Well, he resisted, at first, and said, "'Chilly'
25 don't want you to see his eyes."

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2 Q Okay. But you got him to take them off?

3 A Uh-huh.

4 Q Okay. What happened after that?

5 A Well, after that, I started getting scared and being nice
6 to him.

7 Q What do you mean, "being nice to him"?

8 A Well, just being as nice as I could.

9 Q Well, what do you mean by that?

10 A By not getting paranoid, scared and showing that I was
11 scared.

12 Q You mean you didn't run from him, or didn't scream, or
13 anything?

14 A No, sir.

15 Q You were friendly to him?

16 A Yes, sir.

17 Q Did you make any sexual advances toward him?

18 A No, sir.

19 Q Did he make any toward you, at that time?

20 A Yes, sir.

21 Q What did he do?

22 A Kissed me.

23 Q And what did you do?

24 A Went along with it.

25 Q What do you mean?

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A Well, I kissed him back.

Q How come?

A Because I figured I'd -- I was scared and I was a little tipsy, at the time.

Q Why didn't you call for Faye and Robert?

A Because they looked busy, at the time.

Q Well, any other reason?

A Yes. I was scared to do anything, really, except just keep my mouth shut.

Q Tell the jury, Lisa, as best you can, at that particular time, why you were so scared?

A Because he wanted me to go out in the woods, and started talking about "The Reaper," and "don't be afraid to die," and all of this stuff. And, plus, he wasn't acting himself.

Q Did he ask you to get him another beer?

A Yes, sir.

Q And was this before you got scared, or after?

A This was --

Q Kind of in between?

A Yes, sir. Kind of in between.

Q Now, the second beer he asked for, did you tell him anything?

A I said I wasn't his maid.

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Q Okay. So, you kind of resisted him there, told him you weren't his maid. What did he say to you?

A He said, "Get 'Chilly' a beer."

Q Uh-huh. Anything else?

A He said, "You be nice to 'Chilly'."

Q Okay. What happened after that, Lisa?

A Well, after that, Faye and Robert made their way back to the car.

Q Okay. And before Faye and Robert made their way back to the car, did you ever accidentally call him David?

A Yes, sir.

Q What happened when you accidentally called him David?

A Well, he got mad.

Q How mad did he get?

A He just said, "My name is not David, it's 'Chilly.'"

Q Is that how he said it?

A He said, "My name is not David, it's 'Chilly.' This ain't David, this is 'Chilly' you're talking to."

Q Okay. By the way he said it, did it scare you?

A Yes, sir.

Q Did he tell you anything about "Chilly"?

A No, sir. Not that I can remember.

Q Okay. Did he ask you if you were afraid of him?

A No, sir.

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O Okay. What happened when Faye and Robert started coming back?

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A Then Faye and Robert came back and they got in the car. And it was getting to be nighttime by then.

5

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Q Well, did he --

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A Well, before that, I went over there and I talked to Faye.

8

9

Q Oh, you left the car and went over to the bench where Faye was?

10

11

A Uh-huh.

12

O Okay. What for?

13

A Just to get away.

14

Q Get away from "Chilly"?

15

A Yes, sir.

16

Q Okay. Did you tell Faye what was going on?

17

A I tried to, but she didn't seem to care.

18

Q Okay. What do you mean, you "tried to"?

19

A Well, I just was saying, he's acting strange, and he ain't acting like the same person I knew.

20

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Q Uh-huh. Well, was she concerned?

22

A Or that I had seen. No. She said, oh, he -- she cussed a lot. And she just said, oh, he's an asshole, or something.

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Q Okay. So, she wasn't too concerned about it?

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2 A No.

3 Q What happened when Faye and Robert got back to the car?

4 A We went over to this house.

5 Q Okay. Who was driving, David, still?

6 A Yes, sir.

7 Q Okay. Whose idea was it to go to the house?

8 A Not mine. It was David's.

9 Q Okay. So, he took all four of you to the house?

10 A Yes, sir.

11 Q Do you remember where the house was?

12 A It was pretty close to the store and the Methodist Home.

13 Q So, pretty close to the Rainbow Drive-In and pretty
14 close to the Methodist Home?

15 A Uh-huh.

16 Q Did you go into the house?

17 A Yes, sir.

18 Q All four of you?

19 A Yes, sir.

20 Q Was there anybody else at home?

21 A No, sir.

22 Q What did Faye and Robert do when you got inside the
23 house?

24 A Well, we all sat for a little bit, and then they went
25 in the bedroom.

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2 Q You all sat. Where did you sit?

3 A On the couch. And Faye and Robert kind of looked like
4 they didn't want to sit and talk for too long.

5 Q You mean they were kind of romantic with each other?

6 A Yes, sir.

7 O Now, when you went out on the date -- when you were first
8 told you were going to go out on a date with David
9 Spence -- did you expect that you were going to be going
10 to bed with him?

11 A No, sir.

12 Q Had you planned on going to bed with him?

13 A No, sir.

14 O Had the topic even come up between you and Faye?

15 A No, sir.

16 O Did she tell you what kind of date it was going to be?

17 A She just said we were going to go out partying.

18 Q Okay. And "partying" means to go out and do some drink-
19 ing?

20 A Yes, sir.

21 Q Okay. So, they were feeling romantic toward each other
22 and they went into the bedroom, is that what you're
23 saying?

24 A Yes, sir.

25 Q Did they close the door?

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2 A It was a curtain.

3 Q Curtain. And what happened with you and David while
4 ya'll were there in the living room? What happened next?

5 A He started being aggressive.

6 Q What do you mean by "aggressive"?

7 A Started talking about "Chilly" again.

8 Q Well, what did he say about "Chilly"?

9 A He said, "'Chilly' won't hurt you. And you be nice to
10 'Chilly' and 'Chilly' won't hurt you."

11 Q Was he talking soft like that?

12 A No.

13 Q Well, tell the jury how he was talking?

14 A He was saying, "'Chilly' won't hurt you. And you be nice
15 to 'Chilly' and 'Chilly' will be nice to you."

16 Q Well, was he talking soft and sweet? Or were you
17 scared?

18 A I was scared.

19 Q Why were you scared?

20 A Because he had a kind of crazy tone to his voice.

21 Q What did his face look like?

22 A Mean.

23 Q His eyes?

24 A Evil.

25 Q You were scared?

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A Yes, sir.

Q Now, what do you mean? You said he was talking weird and you said he got aggressive. How did he get aggressive?

A He started putting his hands all over me and putting his hands down my pants and biting me on the chest.

Q Well, what were you doing, Lisa?

MR. HUNT: Excuse me, Mr. Feazell.

Your Honor, at this time, I'm going to re-urge my objections, not waiving the running bill. But I would like to add to the running bill a motion for mistrial, based on the witness' responses to the preceding question and to the foregoing anticipated responses. I would ask that you include in my running bill a motion for mistrial, on that basis.

THE COURT: All right, sir. I'll do that.

MR. HUNT: Thank you, Your Honor.

Will you rule on that?

THE COURT: I'll overrule that objection.

MR. HUNT: Thank you, Your Honor.

BY MR. FEAZELL:

Q Lisa, while he was putting his hands down your pants and squeezing on you, what were you doing?

A I was telling him to leave me alone.

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Q Well, how were you telling him to leave you alone?

A I kept saying, "Leave me alone. Can't we just sit here and talk? I mean, we don't have to do this." And he kept on saying, "You be good to 'Chilly'." And I was getting scared.

Q Getting more scared?

A Yes.

Q Were you crying?

A I felt like it.

Q Okay.

A I started to cry.

Q Why didn't you call out for Lisa and Robert?

A Faye and Robert?

Q Faye and Robert. I'm sorry, Lisa.

A Well, I was afraid, if I called and panicked or anything, that he would go crazy.

Q You mean he was acting so weird, to the point you were afraid he might go crazy and hurt you?

A Yes, sir.

Q Why were you feeling like that?

A Because of a remark he had made earlier about going in the woods, and "Don't be afraid to die," and "Don't fear 'The Reaper'," and all of this. And it was just coming together, and I was --

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2 O Was he still talking real rough to you?

3 A Yes, sir.

4 O Okay. Well, what happened after he started trying to
5 stick -- started sticking his hand in your pants and
6 started squeezing you?

7 A What happened?

8 O Yes, ma'am.

9 A Well, I told him to leave me alone, and he just kept on
10 and on. And, then, he started biting me.

11 O Where did he bite you?

12 A On my chest.

13 O Now, was your shirt up?

14 A Yes, sir.

15 O How did your shirt get up?

16 A He pulled it up.

17 Q Did you try to pull it back down?

18 A Yes, sir.

19 Q Were ya'll on the couch, at that time?

20 A Yes, sir.

21 Q Where -- show the jury exactly where he bit you?

22 A He bit me right here.

23 Q Stand up, so the jury can see, please.

24 A He bit me right here.

25 O Anywhere else?

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2 A Right here.

3 Q You mean on the nipple on that breast?

4 A Yes, sir.

5 Q How hard did he bite you, Lisa?

6 A Hard.

7 Q Real hard?

8 A Yes, sir.

9 Q Did it hurt?

10 A Yes. It did.

11 Q Did it leave marks?

12 A Right here it left a mark.

13 Q What did the mark look like that was left up there?

14 A It was red for a long time.

15 Q For how long?

16 A A couple of weeks.

17 Q The mark was still on you for two weeks later?

18 A Yes, sir. When the detectives talked to me, it was
19 still there.

20 Q And how much longer was it after this happened that the
21 detectives talked to you?

22 A It was two weeks. About two weeks.

23 Q About two weeks later. Did you show the mark to the
24 detectives?

25 A Yes, sir.