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been first sworn, testified as follows, to-wit:

VOIR DIRE EXAMINATION

BY MR. HUNT:

Q Kevin, state your name for the record, please.

A Kevin Roy Mikel.

Q Kevin, you are presently an inmate in the McLennan County Jail, is that correct?

A Yes, sir.

Q Okay. My understanding is, that you're about to testify against David Spence, as far as some statements that you are going to say were made to you by David Spence, is that correct?

A Yes, sir.

Q Okay. In order to make it easier for me to question you, tell me how many statements, if you can remember, were made to you by David Spence. Or give me a time period when these statements were made.

A All within a month.

THE COURT: You're going to have to speak up, so I can hear you.

A All within a month.

Q Okay. And when was that month, Kevin?

A November and December. So, it would have been November of 1982 and December of 1982?

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A Yes, sir.

Q Are there any statements allegedly made to you by David Spence after December of 1982, having to do with the lake murders?

A I don't think so.

Q Okay. I'm not going to ask you the substance of the statements made by David Wayne Spence. But when I talk to you about the statements that were made to you, or allegedly made to you by David Spence, I am specifically talking about statements that had to do with the lake murders, murders at Lake Waco in July of 1982. Do you understand that?

A Yes, sir.

Q Okay. The statements, then, that I want to know about is, first of all, prior to the first time that David Spence allegedly made any statements to you about the lake murders, had you had any conversations with Truman Simons, or any other law enforcement officer? And that means any law enforcement officer, jailer, anybody at all that represents the State of Texas or the County of McLennan?

MR. BUTLER: Your Honor, "any conversations at all" is a pretty broad and general statement. I'm sure he had them, he was in the jail.

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MR. HUNT: I will be glad to narrow it down a little more.

THE COURT: All right.

BY MR. HUNT:

Q Had you talked to any police officers, of any kind, shape or form, about the lake murders, prior to that time?

A Yes, I had.

Q Okay. In what regard? How did you talk to them? Tell me what you were told by them, and why you happened to talk to them.

A I thought that I had evidence against somebody else.

Q Okay. And that was prior to your first conversation with Spence?

A Yes.

Q Okay. Who did you talk to?

A Truman Simons.

Q When did you talk to Truman, on that occasion?

A Sometime at the end of November or December.

Q Sometime the end of November or December, but it was prior to talking to Spence, is that correct?

A Yes.

Q Okay. So, that also was while you were in McLennan County Jail?

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A Yes, sir.

Q Okay. When you talked to Truman Simons on that occasion, did Truman indicate to you that, first of all, that he wanted that kind of information?

A No, sir.

Q He didn't indicate to you that he wanted to gather information about the lake murders?

A He did, but he didn't come to me.

Q Okay. How did you happen to go to him, then?

A He did come to me.

Q He came to you?

A Right.

Q Okay. Pulled you out of your cell? Or did he come up to your cell?

A He pulled me out.

Q Okay. And you talked to him where?

A Downstairs at the booking desk.

Q What time of the day or night?

A I have no idea.

Q Was it morning? Was it evening? Was it the middle of the night? Was it sometime when you were sleeping? What had you been doing prior to that?

A I don't remember.

Q Could it have been in the middle of the night?

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A I doubt it. It was probably in the daytime.

Q Okay.

A I don't remember.

Q Okay. And you talked to him at the booking desk?

A In that area.

Q And did he talk to you and ask you if you had information about the lake murders? How did he know to talk to you?

A When I first met David.

Q Now, again, this is before Spence had talked to you about the information --

MR. BUTLER: Judge, let him answer the question. He's asked a question, let him answer it.

THE COURT: All right. But I want to be sure he understands.

Do you understand that he's talking about before you had talked to Spence?

BY MR. HUNT:

A No. I had never talked to Truman Simons before I met Spence.

Q Did you talk to Truman Simons before you talked to Spence about the lake murders? Just so that we are both clear, okay? I want the record to be clear, I want you to understand what I'm talking about. All right, I under-

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2 stood you to say that you talked to Truman Simons,  
3 because you thought you had information about someone  
4 else, prior to the time that you gained any information  
5 about Spence. Is that what you said?

6 A Yes, sir.

7 Q That's what I'm talking about. I want to talk about  
8 when you talked to Truman Simons on that occasion. Is  
9 that clear enough?

10 A Yes, sir.

11 Q Okay. Tell me when you talked to Truman Simons about  
12 that particular thing.

13 A The end of November.

14 Q Okay. That was before you talked to Spence about the  
15 lake murders, is that correct?

16 A No.

17 Q I don't know what the problem is, okay, and that's what  
18 I'm trying to get to, all right?

19 MR. BUTLER: Judge, if he will just ask him  
20 what happened. I'm not insisting upon question and  
21 answer. I think he can explain it to him.

22 THE COURT: I overrule the objection.

23 MR. HUNT: Thank you, Your Honor.

24 BY MR. HUNT:

25 Q Okay, again, understand, that I'm talking to you, I want

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to know how you happened to talk to Truman Simons about this other person, okay? Tell me how you happened to talk to Truman Simons.

A When I first met David Spence --

Q Okay.

A -- I had been at Aransas Pass. And I had read a letter and talked to a person that thought he had information that could...

Q Okay.

A And I told Spence about it.

Q Okay, You told Spence about the letter that you had found out about while you were at Aransas Pass?

A Yes, sir.

Q Okay. Tell me about the letter, Maybe that will be a way that we can get to this, okay? What are you talking about when you're talking about the letter?

A It was just a letter that was from a friend of an acquaintance of mine. And we were sitting on the beach and we were talking about the murders.

Q Okay.

A And he brought up a letter that he had received. And we were both drinking, but...

Q Okay. Is this the letter that's got something to do with somebody having done the murders, or killed the

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three kids, or something like that?

A Yes, sir.

Q Okay. So, you knew about a conversation that you had with a friend in Aransas Pass about a letter that the friend had received that had to do with the lake murders, is that correct?

A Yes, sir.

Q Okay. Did you tell Spence about that?

A Yes, sir.

Q Did Spence tell you to go to Truman Simons with it?

A No.

Q Okay. What made you -- how did you get connected up, then, with Truman Simons relative to this letter?

A He came to me, I think.

Q Truman pulled you out, asked you -- did he ask you if you knew anything about the lake murders?

A Yes.

Q Okay. He specifically was looking for information about the lake murders?

A Yes, sir.

Q Okay. You told Truman about the letter, is that correct?

A Yes.

Q Okay. At that time, did Truman indicate to you in any

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way that he was interested in getting more information about the lake murders? Or did he just say, thank you, very much, see you around sometime, goodbye?

A That's pretty much what happened.

Q Didn't tell you that he was interested at all in any more information about the lake murders?

A Not from me.

Q Did he to somebody else, that got back to you?

A No, sir.

Q At that time --

THE COURT: Sir? I didn't hear your answer.

A No, sir.

Q At that time, was it common knowledge that Truman Simons was, in fact, looking for information about the lake murders? Common knowledge in the jail?

A Not really.

Q Did you know of anybody else that had talked to Truman Simons, at that time, about the lake murders?

A No, sir.

Q Nobody else that you knew about?

A No, sir.

Q Did you talk to Spence about his conversations with Truman Simons about the lake murders?

A Not at that time.

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Q Okay. Sometime later you talked to Spence about his conversations with Truman Simons?

A Yes.

Q Okay. Did Spence tell you that Truman had offered to try to help him, if he could give Truman information?

A I really don't remember.

Q You just don't remember?

A No, sir.

Q Did Spence tell you that he was trying to give information to Truman?

A No, sir.

Q Never told you that?

A No, sir.

Q Okay. All right. From the time -- okay, did you have one conversation, or more than one conversation with Truman Simons about that letter?

A More than one.

Q Okay. Did you, in fact, also go with Truman to Aransas Pass?

A Yes, sir.

Q Okay. How did you go with Truman to Aransas Pass?

A By car.

Q So, how long did that take you? From when to when?

A From 5:00 o'clock in the morning until about 10:00

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o'clock in the evening.

Q During that time you were with Truman and somebody else --

A Yes, sir.

Q -- in a car going to and from Aransas Pass?

A Yes, sir.

Q Who was the other person?

A Mr. Chambers.

Q Was it D. L. Chambers, who used to be an investigator with the District Attorney's Office?

A Yes, sir.

Q Okay. During that time that you were with D. L. Chambers and Truman Simons, going to and from Aransas Pass, were there any conversations at all about whether or not your information might be able to assist you in your case?

A No, sir.

Q Was there any conversation at all, as far as Truman saying, I really want to gather information, or all of the information I can, about the lake murders?

A No, sir.

Q What was the conversations about, if it wasn't about that?

A I was sleeping.

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Q You slept the whole time, from 5:00 until 10:00?

A All of the way back.

Q What about the way down there?

A We didn't talk about it that much.

Q You didn't talk about --

A He wanted to know about the person that we were going to see.

Q Okay. You didn't talk about the lake murders, just talked about the person you we're going to see?

A Yes, sir.

Q And your testimony is, that at no time, did he say that this was going to benefit you, in any way at all in your case, if you gave information?

A No, sir.

Q Okay. Just so that the record is clear, I'm going to ask my question again. Did he, at any time that you were on your way down there talking to Truman Simons, indicate to you, that if you gave him information, it would help you in your case?

A No, he didn't.

Q Did he indicate, in any way to you, that he wanted more information, if you acquired more information?

A No.

Q Did you understand that he would want that information,

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if in fact, you acquired it?

A No, sir.

Q You just didn't figure that?

A No, sir.

Q Okay. Did you have any other conversations after 10:00 o'clock that evening, with Truman Simons, regarding the lake murders, up until your first conversation with David Spence?

A No, sir.

Q Okay. That probably was confusing, because you had already had a conversation with Spence. From the time that you got back at 10:00 o'clock in the evening from going to Aransas Pass, okay, when is the next time that you had conversation with Truman Simons, or any other law enforcement officers, about the lake murders?

A I really don't know. I can't remember. It was quite awhile.

Q Okay. Was it while you were in McLennan County Jail?

A Yes.

Q After that conversation with law enforcement officers, did you have any other conversations with David Spence about the lake murders?

A Do you want to rephrase that?

Q Yes. You've already said -- if I could put it in your

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words -- you correct me, if I'm wrong. You're saying nobody made you any promises at all up until 10:00 o'clock in the evening when you got back from Aransas Pass, is that correct?

A Do what?

MR. FEAZELL: Now, Your Honor, I'm going to object to the way that question is being phrased, implying that some kind of promise was made at 10:00 o'clock that evening.

THE COURT: I overrule the objection.

BY MR. HUNT:

Q I want it to be clear in the record, and I want to make sure you understand me. Up until 10:00 o'clock -- that's the cutoff time -- I'm not saying a promise was made, I'm asking about anything, any kind of indications to you, that you would be helped in any way, by getting information for the police. Do you understand that?

A Yes.

Q Okay. Up until that 10:00 o'clock period, had anybody indicated that it would help you in any way, shape or form, either by being able to plea bargain, by being able to get your charges reduced, by hypothetically coming back here, and after somebody finds a defect in your indictment, anything like that, had any conversations

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taken place between you and any other law enforcement officer -- and I include people from the District Attorney's Office in that -- up until that 10:00 o'clock time?

A No, sir.

Q Okay. From that 10:00 o'clock time forward, okay -- from then up until the next time that you are claiming that David Spence said -- let me change questions in the middle of the stream. Okay, new question. Up until that time -- I assume, because you went to Aransas Pass -- David Spence had not, up until that time, said anything to you about he having done the lake murders, is that correct?

A Yes, sir, it is.

Q Okay. So, apparently, if there's any incriminating statements, they're made after that trip to Aransas Pass, is that correct?

A Yes, sir.

Q Okay. From that 10:00 o'clock time, up until the first statement that David Spence said to you, that you believed to be incriminating, did you have any contact with any other police officer, of any kind, about the lake murders?

A No, sir.

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2 Q Okay. From that 10:00 o'clock time, until you left the  
3 McLennan County Jail, did you have any conversations  
4 with any peace officers about what David Spence had told  
5 you about the lake murders?

6 A No, sir.

7 Q Didn't talk any more about it?

8 A No, sir.

9 Q Okay. When is the first time you talked to somebody  
10 about it after that 10:00 o'clock return from Aransas  
11 Pass?

12 A January 22nd.

13 Q January 22nd, Where were you on January 22nd?

14 A In McLennan County Jail.

15 Q And who did you talk to?

16 A Truman Simons.

17 Q Okay. That was well after any conversations you had had  
18 with Spence, is that correct?

19 A Yes, sir.

20 Q Okay. So, your testimony today is, no peace officer --  
21 and that includes Sheriff's deputies, jailers, Waco P.D.  
22 people, Texas Rangers, and members of the District  
23 Attorney's Office -- that no peace officers told you it  
24 would help you in any way, shape, or form, if you were  
25 to get that information about David Spence or the lake

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murders, is that correct?

A Yes, sir.

Q Okay.

THE COURT: Are you saying it was January the 22nd? What year?

THE DEFENDANT: '82. '83.

THE COURT: '83?

THE DEFENDANT: Yes, sir.

BY MR. HUNT:

Q Okay, on that -- it isn't clear. On that January the 22nd meeting here in McLennan County, had you been constantly in the jail? Or had you been transferred and brought back?

A I had been sent to TDC and brought back on a bench warrant.

Q So, you were brought back on a bench warrant?

A Yes, sir.

Q Why were you brought back on a bench warrant?

A For shock probation. To file for shock probation.

Q Okay. So, you had applied for probation up here, had been sent down on shock, and brought back here to begin your probation, or to have your hearing?

A To have a hearing.

Q Okay. Were you granted probation?

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A No, sir.

Q Okay. So, then, you went back down there?

A Yes, sir.

Q Okay. Your conversation with Truman was January the 22nd?

A Yes, sir.

Q When were you brought back?

A I don't know exactly.

Q How long before that, approximately?

A A couple of days.

Q A couple of days before that. Okay.

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

THE COURT: Does the State have any questions?

MR. FEAZELL: Not at this time, Your Honor.

THE COURT: I've got a few questions.

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

BY THE COURT:

Q Let me ask you this, you said you went to Aransas Pass with Truman Simons and D. L. Chambers, and at that time, you had had no conversations concerning the lake murder cases with David Wayne Spence, is that correct?

A No, sir. It is correct.

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Q It is correct. All right, sir. Now, when did you go to the penitentiary?

A February 15th of '83.

Q Of '83?

A Yes, sir.

Q Do you remember when you went to the penitentiary?

A February 15th of '83.

Q Well, if I understood your testimony a minute ago, you said that you had a conversation on January the 22nd of '83, is that correct?

A It was '82, then. I'm sorry. My memory...

THE REPORTER: Can you speak up a little bit?

THE WITNESS: Yes, sir. I'm sorry.

BY THE COURT:

Q Well, when was it that you went to Aransas Pass with Truman Simons and D. L. Chambers? Was that in '82?

A That would have been the beginning of December in '82.

Q That would have been in '82. So, then, in January the 22nd of '83, is when you had the conversation with Truman Simons in jail?

A Yes, sir.

Q Well, then, you didn't go to the penitentiary until after that in February. Had you been to the penitentiary prior to the January 22nd conversation? When you came

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back here for shock probation, I assume that you had?

A Yes, sir.

Q When did you go to the penitentiary that time, prior to the January 22nd, 1983 conversation?

A February.

Q Well, January comes before February. Are you talking about in February of '82?

A Yes, sir.

Q Well, if you went to the penitentiary in February of '83 -- or '82 -- how did -- what were you doing up here in the latter part of 1982?

A I have the dates mixed up. I'm sorry.

MR. BUTLER: Judge, let me take him for a minute.

THE COURT: All right.

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

BY MR. BUTLER:

Q Mr. Mikel, at the time you gave this statement on January the 22nd, 1983, state whether or not you were in the McLennan County Jail?

A I was.

Q All right, sir. And what floor were you on?

A The fourth floor.

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2 Q Were you still there where David Spence was, or had you  
3 been moved from where David Spence was?

4 A I had been moved to the second floor.

5 Q You had been moved to the second floor?

6 A Yes, sir,

7 Q How long had you been there?

8 A A couple of weeks.

9 Q Okay. So, you hadn't been to the penitentiary, at that  
10 time, had you?

11 A No, sir, I hadn't.

12 Q All right. And you went to the penitentiary sometime  
13 in February of 1983, approximately three weeks after  
14 talking to Truman Simons on January the 22nd of 1983,  
15 is that correct?

16 A Yes, it is.

17 Q And, then, after you had been in the penitentiary for  
18 some period of time, then you were bench warranted back,  
19 is that correct?

20 A Yes, sir, it is.

21 Q And at that time, is when you were applying for shock  
22 probation, is that correct?

23 A Yes, sir.

24 Q And you didn't get shock probation, did you?

25 A No, sir.

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Q Did you, in fact, go back to the penitentiary?

A Yes, sir.

MR. BUTLER: That's all we have, Judge.

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

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

BY THE COURT:

Q All right, so I can understand, then, after you went down to Port Aransas in 1982, you came back to McLennan County Jail, is that correct?

A Yes, sir.

Q And you stayed in the McLennan County Jail up until January the 22nd, when you gave this statement, is that correct?

A Yes, sir.

Q Of 1983?

A Yes, sir.

Q Then, thereafter, you were sent to the penitentiary, is that right?

A Yes, sir.

Q Then you came back and applied for shock probation, and you didn't get it. Did you come back up here for shock probation? Or did you just apply and have it denied?

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2 A I came back up here.

3 Q All right. Who represented you?

4 A Whitney Fanning.

5 Q Whitney Fanning. Between the time that you came back  
6 from Port Aransas, did you have any other conversations,  
7 prior to January the 22nd, 1983, with either Truman  
8 Simons or any other peace officer, concerning the lake  
9 murder cases?

10 A No, sir.

11 Q You had none?

12 A None.

13 Q And what was the occasion for you to have a conversation  
14 on January the 22nd?

15 A Truman Simons came to me.

16 Q And which floor were you on, at that time?

17 A Second floor.

18 Q Was that the same floor that David Spence was on?

19 A No, sir.

20 Q All right. Well, what did Truman ask you?

21 A He asked me if I knew anything about Spence being  
22 guilty of the murders.

23 Q All right. Now, prior to that time, had he ever asked  
24 you anything about Spence?

25 A No, sir.

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Q Okay. And prior to the 22nd, he had not asked you anything about Spence, is that correct? The 22nd of January of 1983?

A No, sir.

Q All right. From the time that you first came in contact, after you received this information concerning this letter at Port Aransas, did any peace officer, or any representative of the District Attorney, or any representative of law enforcement, ever make known to you that they wanted you, or that you should seek information concerning the lake murder cases?

A No, sir.

Q Did any of them ever make it known to you, or imply in any way, that if you could get any information, that they could do some good for you on your sentence?

A No.

Q Were you ever promised anything or threatened if you didn't get any information for them?

A No, sir.

Q Were you ever led to believe that you should get information for them, and then report back to the Police Department, or to Truman Simons, or to any other law enforcement agency?

A No, sir.

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Q When were your conversations, if you remember, with David Wayne Spence, concerning anything about the lake murder cases?

A The first one was in the middle of December.

Q All right. About how many did you have?

A About five.

Q And how -- over what period of time?

A Sir?

Q Over what period of time?

A Within a month and a week.

Q Within a week?

A Within a month and a week.

Q Within a month and a week?

A (Nodding head.)

Q When you came down on January the 22nd, 1983, how long prior to that day had it been that you had conversations with David Spence? In other words, before that day? You said that, during December, that you had some conversations with Spence, is that right?

A Yes, sir.

Q All right. And it was about over a month and a week period of time, is that what you said?

A In between that time.

Q In between that time?

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A Yes, sir.

Q What floor was David Spence on?

A Fourth.

Q When were you moved off of the fourth floor? Do you know?

A About the second week of January.

Q About the second week of January. So, before you got moved off of that floor, would have been when the conversation arose, is that correct?

A Yes, sir.

Q With Spence?

A Uh-huh.

Q Why were you moved from the fourth floor to the second floor?

A Because I was telling David not to talk to Truman.

Q Why would you have been telling David not to talk to Truman?

A Because I didn't think he had done it, at that time. I wasn't -- I knew that he had done it, but I knew, also, what they were going to do, and I thought that he needed psychiatric help.

Q What do you mean, you knew what you thought they were going to do? What did you mean by that? What did you think they were going to do?

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2 A Lethal injection.

3 Q Sir?

4 A Lethal injection.

5 THE COURT: You're going to have to speak up.

6 A A lethal injection.

7 Q Had you ever had any kind of conversation with Truman  
8 Simons or anybody, concerning what the punishment would  
9 be?

10 A No, sir.

11 Q During this period of time, were you having any conver-  
12 sations with Truman?

13 A Yes, sir.

14 Q During the time you were talking to David?

15 A Yes. In the mornings we would talk to him.

16 Q All right. And what would you talk to him about?

17 A Well, just talk.

18 Q Did you talk about the lake murder cases?

19 A Not -- not as just -- maybe a few times. Whenever they  
20 would get into that, I would leave.

21 Q Whenever "they." What do you mean by "they"?

22 A Him and Truman.

23 Q You're talking about Spence?

24 A Yes, sir.

25 Q All right. But did you yourself, did you ever have any

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conversations?

A No.

Q With Truman, during that period of time, about the lake murder cases? I'm not talking about Spence, I'm talking about you?

A Yeah. I imagine so. I mean, yes. But it wasn't concerning him, it was just the case.

Q It wasn't concerning Spence?

A No, sir.

MR. BUTLER: Judge, could I ask one or two questions, at this point?

THE COURT: Yes, sir.

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

BY MR. BUTLER:

Q At the times you had conversations concerning the lake murder cases with Truman Simons, in the mornings that you just told the judge about, who else was there?

A David Spence.

Q Was he there each and every time?

A Just about.

Q All right. Did you ever have a conversation with Truman Simons in the morning, during that period of time, concerning the lake murder cases, where David Spence

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wasn't there?

A I really don't remember.

Q Can you remember ever talking to Truman Simons by himself about it, when David Spence wasn't around?

A Yes.

Q During that period of time?

A Before I give him my statement.

Q Before you gave him your statement?

A Yes, sir.

Q You do remember talking to Truman Simons by himself, while you were on the floor with David Spence?

A I really don't remember.

MR. HUNT: I have a few other questions, Your Honor.

THE COURT: All right.

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

BY MR. HUNT:

Q Kevin, seems to me that you told me a minute ago that you had two conversations, and all of a sudden, you've got more than two, some of them David is there, some of them you're there by yourself. Doesn't that sound like what you're saying now?

A Sir?

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Q You first told me you had two conversations with Truman Simons, and now all of a sudden, we have got all kinds of conversations with Truman Simons, okay? Now, it seems like what you also just said is, up until a certain point, you didn't think David Spence did the crimes, isn't that a fact? You didn't think David did the crimes until when? When is the first time you felt David might have done the crimes?

A About the third week of December.

Q Up until that time, David had told you he didn't do the crime, isn't that true?

A Yes, sir.

Q And, in fact, you knew that he was talking to Truman Simons, at that time, isn't that a fact?

A Yes, sir.

Q Because you were with him sometimes?

A Yes.

Q And you knew that Truman and David were talking about the crimes, and that David was giving Truman information, isn't that right? That David and Truman were freely talking about the crimes, and you were there some of the times, weren't you?

A Yes, sir.

Q And you knew why David was giving Truman information,

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didn't you? He told you he was giving Truman information in order to try to help himself, didn't he?

A Yes.

Q So, that, you knew that David was trying to get some help somehow, by giving information to Truman Simons. That's fair, isn't it? That's a true statement?

A Yes, sir.

Q And, in fact, you were even present and you told David you didn't think David should be talking to him, isn't that true?

A Yes, sir.

Q And the reason you thought that, is because you figured out David is going to give them information that's going to wind up killing David, isn't that a fact?

A Yes, sir.

Q So, you knew, in fact, that David at least figured, that he was going to be helped by giving information to Truman Simons. That's correct, isn't it?

A I didn't think he was going to be helped by it.

Q You knew that that's the purpose, though, for giving the information, was to help him on his sentence, isn't that right?

A Yes, sir.

Q And, in fact, David told you that, if you told Truman

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Simons about the letter, it might help you, too, isn't that a fact?

A Yes, sir.

Q It might help you in your case, and that's exactly why you told Truman Simons about the letter?

A No, it's not.

Q Why did you tell him, then?

A Because I wanted whoever did that to be caught.

Q Okay. Good. You also wanted to help David, at that time, too, because you didn't think David did it, at that time, isn't that a fact?

A That's right.

Q And you knew it would help David, you figured that out?

A Yes, sir.

Q All right. And you knew, by giving information to Truman Simons, that that would be a vehicle to be helped, if David was going to be helped, is that right?

A Yes, sir.

Q Okay.

MR. HUNT: I think that's all of the questions we have got, Your Honor.

THE COURT: Any other questions?

MR. BUTLER: May we have just a minute, Judge?

THE COURT: Yes, sir.

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

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4 BY MR. BUTLER:

5 Q Mr. Mikel, did you ever tell anybody that Truman Simons  
6 asked you to go find information on David Spence? Isn't  
7 it a fact, that you told me that?

8 A Yes, sir.

9 Q Okay. When did you tell me that?

10 A When I had come back on a bench warrant to apply for  
11 shock probation.

12 Q Okay. Would this have been sometime in April or May of  
13 1983?

14 A Yes, sir.

15 Q You're going to have to speak up, so the Judge can hear  
16 you.

17 A Okay.

18 Q When you told me that, was that the truth?

19 A No, sir.

20 Q Why did you tell me that?

21 A Because I thought it might help me to get shock probation.

22 Q Because you thought it might help you get shock proba-  
23 tion?

24 A Yes, sir.

25 Q And did you get shock probation?

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2 A No, sir.

3 Q Now, at that time, you had already given your statement,  
4 had you not?

5 A Yes, sir.

6 Q And we're talking about a period of time some four or  
7 five months later, is that correct?

8 A Yes, sir.

9 Q Now, when you first found out from David -- let's strike  
10 that. When did you get moved off of the floor -- from  
11 the fourth floor? I believe you stated earlier it was  
12 sometime in the first or second week of January, is that  
13 correct, of 1983?

14 A Right.

15 Q All right. Did you immediately call Truman Simons and  
16 tell him, hey, I've got some information for you?

17 A No, sir.

18 Q Did you wait a week and call him?

19 A No, sir.

20 Q Did you ever call him?

21 A No, sir.

22 Q Tell the Judge what you did?

23 A I gave the information to David Cassal, didn't say any-  
24 thing to Truman Simons.

25 Q Why did you do that?

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A Because I didn't want to snitch on Spence.

O Because you didn't want to snitch on Spence. You knew Truman Simons was investigating that crime, didn't you?

A Yes, sir.

Q But you gave the information to somebody else to tell Simons?

A Yes, sir.

Q And, then, what happened after that?

A He went and messed it all up. He went and lied to Truman.

Q Well, he was lying to Truman, if he was telling him that he found that out from Spence, wasn't he?

A Yes, sir.

Q And you had asked him to lie to Truman, hadn't you?

A Yes, sir.

O And what did Truman Simons tell you when he came back and talked to you?

A He told me that I was the only person that could have told him that.

Q And what else did he ask you, at that time?

A He told me to make a statement.

Q All right. And did you?

A Yes, sir.

Q So, when you told me April, or May, or whenever it was

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of 1983, that Truman Simons had asked you to go in there and find out something about Spence, you were doing that just to help yourself, thinking that it would make you look better in my eyes, is that correct?

A Yes, sir.

Q Was it the truth?

A No, sir.

Q Has Truman Simons, or anyone else, ever asked you to go in and find out any information at all on David Wayne Spence?

A No, sir.

MR. BUTLER: That's all, Judge.

THE COURT: Any other questions?

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

THE COURT: You need to take this witness back.

All right, again, I want -- state what your objections are to this witness' testimony.

MR. HUNT: Your Honor, we're going to object, on the basis that this witness has become an agent for law enforcement. When he first talked to Truman Simons, he knew about the offers, he knew if he gave any kind of information at all, that it would assist him, and then he proceeded to give information. After that trip to Port Aransas, he became, in effect, an agent of the State,

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knowing that he was going to be able to get a favor,  
if he could get information. We're objecting to him, on  
that basis.

THE COURT: All right, sir.

Does the State have anything else?

MR. BUTLER: Judge, I think it speaks for  
itself. He, very obviously, didn't get any favors,  
wasn't expecting any. As a matter of fact, I think the  
record shows that he didn't even want to talk to Truman,  
that he sent somebody else in his stead. I believe his  
statement was, he didn't want to give any information.

THE COURT: All right.

Well, I'm going to withhold a ruling on it, at  
this time.

Let's go ahead and call the next witness.  
Ya'll have another one over here, I think.

MR. BUTLER: I believe he is bringing him,  
Judge.

THE COURT: All right.

Who is that?

MR. BUTLER: It will be --

MR. FEAZELL: Charles Sypho.

MR. BUTLER: -- Charles Sypho.

THE COURT: Raise your right hand.