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is that because he did not specifically warn him that his -- that the information may be used against him in the punishment portion of a capital murder case, specifically, the issues the jury decides as to whether or not ultimately the Defendant will get life or death, violates Mr. Spence's rights in self-incrimination guaranteed by the Fifth Amendment to the United States Constitution, and also, the rights guaranteed him by the Sixth and Fourteenth Amendments and Article 1 Section 10 of the Texas Constitution.

THE COURT: All right, I will carry that objection until we see where we go from here.

MR. BUTLER: Judge, we don't have anything further. We just -- unless -- we do have one other thing. Let me get him.

Judge, if I may have just one second.

(Brief pause.)

MR. BUTLER: For the purposes of this hearing, we call Truman Simons.

T R U M A N S I M O N S, called as a witness on behalf of the State, having been duly sworn, testified as follows:

VOIR DIRE EXAMINATIONQUESTIONS BY MR. BUTLER:

1 Q State your name for the record, please.

2 A Truman Simons.

3 Q Would you spell that, please, for the Court Reporter?

4 A It is T-r-u-m-a-n, S-i-m-o-n-s.

5 Q How are you employed?

6 A Deputy Sheriff of McLennan County Sheriff's
7 Department.

8 Q How long have you been so employed?

9 A About three years.

10 Q Were you so employed during the month of April 1983?

11 A Yes, sir, I was.

12 Q During the course of your employment, Mr. Simons,
13 let me ask you, did you have an occasion to come
14 in contact with a person by the name of David Wayne
15 Spence?

16 A Yes, sir, I did.

17 (Whereupon instruments were marked
18 (for identification as State's
19 (Exhibits Nos. 54 and 55.

20 Q Let me show you what has been marked for
21 identification purposes as State's Exhibit 54 and
22 ask if you can identify that, please?.

23 A Yes, sir, that is a request form that is used in
24 the McLennan County jail for inmates to fill out
25

1 requests for different needs that they may have
2 in the jail.

3 Q All right, does that request form indicate what
4 inmate it is from?

5 A Yes, David Spence.

6 Q All right, and does it have a date on it?

7 A Yes, sir, it does.

8 Q What is the date?

9 A 4/7/83.

10 Q Have you ever -- on that day, did you have occasion
11 to receive that request form from David Wayne
12 Spence?

13 A Yes, sir, I did.

14 Q And does it say what he is requesting?

15 A It says "To Vic Feazell, I would like to see a
16 psychiatrist. Signed David W. Spence."

17 Q All right, and that is a copy of the request form
18 that you yourself received from David Wayne Spence?

19 A Yes, sir, it is.

20 Q As a result of that, what, if anything, did you
21 do?

22 A Well, Vic Feazell was contacted and made aware of
23 David's request that he would like to see a
24 psychiatrist, and arrangements were made through
25 the District Attorney's Office for Dr. Jolliff to

1 see David.

2 Q And do you know whether or not on that day Dr. Jolliff
3 did see him?

4 A Yes, sir, in the late afternoon hours.

5 MR. BUTLER: Your Honor, we
6 would offer what has been marked for identification
7 purposes as State's Exhibit No. 54 into evidence.

8 MR. REAVES: We have no
9 objections to 54 for the purposes of this hearing.

10 THE COURT: All right, it will
11 be admitted.

12 (State's Exhibit No. 54 was then
13 admitted into evidence.

14 MR. BUTLER: Again, for the
15 record, this is a copy of the original. Pass the
16 witness.

17 VOIR DIRE EXAMINATION

18 QUESTIONS BY MR. REAVES:

19 Q Mr. Simons, do you know who contacted Dr. Jolliff?

20 A I think, I called him.

21 Q Okay, do you know who made the decision as to what
22 psychiatrist to contact?

23 A Well, David and I had talked about him seeing a
24 psychiatrist on several occasions, and he asked
25 me if I knew a good one, and I told him that in

1 my opinion the best one in Waco was Dr. Jolliff.
2 Q Okay, did -- was his request specifically that
3 Dr. Jolliff examine him?
4 A No, sir, I told him that he couldn't specifically
5 request.
6 Q You had discussed this with him previously, I take
7 it, about seeing a psychiatrist?
8 A Yes, sir, he had asked to see one. It seems like
9 it was a month or so before that, and I approached
10 the District Attorney's Office, and at that time,
11 they turned down the request.
12 As best I recall, he asked to see the regular
13 jail psychiatrist which was Dr. Stidvent, but I
14 think, Dr. Stidvent only talked to him for a few
15 minutes, and David didn't seem to be satisfied with
16 that session.
17 Q Had you indicated to him prior to the time he made
18 the request that he might need to see a psychiatrist
19 or have one talk with him?
20 A Well, he was asking me a lot of questions that I
21 couldn't answer, and I told him that probably a
22 psychiatrist could answer those questions better.
23 Q Before Dr. Jolliff went and talked to Mr. Spence,
24 did you have a conversation with him, or did you
25 talk with Dr. Jolliff?