

Friday, April 6, 1984

# David Spence to be 1st tried in lake killings

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David Wayne Spence, who investigators say bit and stabbed Jill Montgomery and Raylene Rice during a July 1982 attack at Lake Waco in which the women and Kenneth Franks were killed, will be tried for the death of Miss Montgomery on May 21.

Judge George Allen set the order Thursday in which the four capital murder defendants will be tried, but he said the May date for Spence's trial in 54th State District Court is tentative.

Allen ordered Spence to stand trial first, followed by Gilbert Melendez, Anthony Melendez and Muneer Mohammad Deeb. Each has been charged with three counts of capital murder, and each will stand trial first for the death of Miss Montgomery.

Allen rejected requests from Spence's and Deeb's court-appointed attorneys to consolidate the three charges. Such an order, in effect, would have allowed the defendants to be tried only once for the three deaths.

Attorneys for the Melendez brothers indicated Thursday they will file similar motions asking that the charges be consolidated.

Allen's ruling will enable prosecutors to bring a defendant to trial in the death of Miss Rice should he be acquitted in Miss Montgomery's death. The defendants face death by injection or life imprisonment if convicted in the Lake Waco killings.

The judge also denied requests Thursday from defense attorneys to increase the amount of money each defendant will be given to assist with his defense.

The Texas Code of Criminal Procedure entitles defendants to at least \$500 for each charge to help with defense preparations. Defense attorneys said Wednesday that the state has spent more than \$100,000 in its investigation and that \$1,500 is insufficient to mount an adequate defense.

In rejecting the motions, Allen said he might reconsider his decision if attorneys in the case refile the motion and can prove the total is insufficient.

Also Thursday, the eighth day of pre-trial hearings in the case, Allen began considering a motion filed by Russ Hunt and Hayes Fuller, Spence's attorneys, to prohibit the testimony of a forensic dental specialist.

Prosecutors are expected to call Dr. Homer Campbell of Albuquerque, N.M., to testify he can prove "in all dental certainty" that Spence was responsible for bite marks found on the bodies of Miss Montgomery and Miss Rice.

Hunt and Fuller, however, claim that Campbell's testimony will not be based on "tried and proven scientific principle, but is based on a relatively new procedure which is not recognized by members of the scientific community."

Allen deferred a ruling on the motion until he hears more testimony on the matter later this month. Campbell reportedly will be in Waco to testify in the murder trial of Jacqueline Euna Warren.

Miss Warren, 19, is charged in the Dec. 10 stabbing and beating death of 70-year-old Ida Lee Baugh.

The judge also delayed a ruling on defense motions to prohibit the testimony of any witness whose memory has been enhanced through hypnosis.

Prosecutor Ned Butler testified that hypnotists from the Waco Police Department and the Texas Rangers have attempted to hypnotize Spence's common-law wife and people who were at Koehne Park on the night of the homicides.

Allen also overruled motions by defense attorneys seeking transcripts of proceedings from the November 1983 grand jury that indicted the defendants.

Under state law, grand jury testimony is secret and not available for public inspection.