

# Jury finds Spence guilty of murder

By **DARRELL DUNN**  
Tribune-Herald staff writer

BRYAN — An 85th District Court jury took about 4½ hours Thursday to find David Wayne Spence guilty of capital murder in the July 1982 Lake Waco stabbing death of Kenneth Franks.

Spence rolled his head but said nothing when the jury returned its verdict.

During closing arguments, an emotional McLennan County District Attorney Vic Feazell asked the jury of six men and six women to believe the testimony of Anthony Melendez and Gilbert Melen-

dez. The brothers testified that they, along with Spence, participated in the rapes of Jill Montgomery and Raylene Rice, and the murders of the two girls and Franks.

"We don't have to be out there with a video camera and get a picture of David Spence running that knife into Kenneth Franks," Feazell said.

"The people out there were David Spence, Gilbert Melendez and Anthony Melendez. We didn't have Billy Graham or the Pope out there to come in here and tell you what happened. We have to

go with the witnesses that were there and saw what happened," Feazell said.

On Tuesday, Gilbert Melendez testified he saw Spence grab Franks by the throat and begin pushing him while stabbing Franks in the chest.

Defense attorneys W.W. Vance and Walter Reaves asked the jury not to consider evidence concerning the murders of Miss Montgomery or Miss Rice, and to concentrate on evidence directly linking Spence to the murder of Franks.

"Mr. Spence is being tried for the death of Kenneth Franks, not the death

of Jill Montgomery or Raylene Rice," Vance said. "He's not on trial here today for those deaths, and we ask you to focus your attention on the testimony involving Kenneth Franks."

Vance and Reaves asked the jury to consider the reliability of the Melendez brothers' testimony. They pointed out that both brothers had prior felony convictions, and both had admitted lying in early statements to police concerning the lake murders. Vance and Reaves

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also attacked inconsistencies in the brothers' testimony.

"What you have is Anthony and Gilbert Melendez's testimony. Two people who admitted they lied before . . . They are lying about what happened and just can't keep their story straight. What (Gilbert Melendez) really told you was that he knows how to lie and he doesn't mind lying if it will help him or his brother," Reaves said.

"You almost get the impression they were at two different places, doing two different things," Reaves said.

"It just doesn't add up, ladies and gentlemen," he said. "Does the story make sense? All this supposedly happened at a public park at which admittedly there were people around. There were screams and loud talking, and yet no one heard anything."

"This is a sick kind of thing, and sick things just don't make sense. It's not the state's burden to prove things make sense," Feazell said.

The defense questioned the prosecution's supposition that Miss Montgomery's breast was bitten by Spence, arguing that since the pathologist testified she was bitten from the side, it could not have been Spence, because the Melendez brothers testified Spence was directly on top of Miss Montgomery.

"We're talking about a struggle involving a woman in the process of dying . . . (The bite marks) were not only consistent with being bitten from the side, but it's also consistent with being bitten straight down and the body being twisted trying to get away from an animal gnawing on her body," Feazell said.

In front of the jury, Feazell recounted much of the Melendez brothers' testimony. At times, Feazell took on the parts of those involved, repeating what the Melendez brothers had said was spoken the night of the murders.

He asked the jury to return justice for Franks and his family. He said that although the distance from the circle where the teenager talked with Spence and the Melendez brothers to the wooded area where the murders took place "is not far, but you can bet it was the longest, most frightening trip Kenneth Franks took in his life."

The jury will consider punishment Friday. Capital murder is punishable by death. Spence already has been sentenced to life for the murder of Miss Montgomery.