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WEDNESDAY, OCTOBER 9, 1985

MORNING SESSION: 8:10 a.m.

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(Whereupon the Defendant was present.)

(Whereupon the following proceedings took place within hearing of the jury.)

MR. FEAZELL: Your Honor, the State would call Reverend Eric Hooker.

REVEREND ERIC HOOKER, called as a witness on behalf of the State, having been duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. FEAZELL:

Q Okay, for the record, your name is Eric Hooker?

A That is correct.

Q And where do you live?

A Waco, Texas.

Q All right, and I believe you are also the pastor of a local church in Waco?

A That is correct, Second Missionary Baptist Church, Waco, Texas.

Q And are you employed in addition to pastoring the church?

A I am. I am Assistant to Congressman Marvin Lee,

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11th Judicial District of Texas.

Q Reverend Hooker, did you have occasion to serve on a McLennan County Grand Jury in November of 1983?

A That is correct. I was foreman of that jury.

Q You were appointed foreman of the jury?

A That is correct.

Q All right, is that the same Grand Jury, Reverend Hooker and we will be asking you about speaking before the Grand Jury -- is that the same Grand Jury that indicted David Wayne Spence for the offense of capital murder?

A It was the same Grand Jury.

Q All right, Reverend Hooker, in considering the case whereupon you indicted -- or the Grand Jury indicted David Wayne Spence for capital murder, did you consider whether or not there had been an effort to determine what weapon was used?

A You are correct. We deliberated long on that particular point, yes.

Q Okay, and did you find that there was a concerted effort?

A There was definitely a concerted effort to find the weapon.

Q What was your finding? Was it that the weapon was known or unknown?

1 A It was unknown. We couldn't determine what the
2 weapon was.

3 Q Did you consider, Brother Hooker, whether or not
4 further investigation would have determined the
5 exact weapon?

6 A We did consider that, and we considered -- found
7 that we don't think any further investigation
8 would have revealed the weapon.

9 Q All right, so was it then the finding of the Grand
10 Jury that the weapon was unknown?

11 A That is correct.

12 Q Tell us, Reverend Hooker, was the weapon, though,
13 determined to be a sharp instrument?

14 A Very definitely determined to be a sharp instrument
15 used.

16 MR. FEAZELL: We will pass
17 the witness, Your Honor.

18 CROSS EXAMINATION

19 QUESTIONS BY MR. VANCE:

20 Q Reverend Hooker, when did this Grand Jury meet?

21 A November 19th -- November or December jury, 1983.

22 Q Okay, is this a special Grand Jury, or was this
23 just a normal Grand Jury from McLennan County at
24 that period of time?

25 A As far as I know, it was the normal Grand Jury for

1 that period of time.

2 Q And did you have the opportunity to review any
3 type of pathology reports in making this determination?

4 A We had opportunity to review doctors' findings on
5 this particular thing.

6 Q Did you have any live testimony from a pathologist
7 or any type of doctor?

8 A No, we did not have the -- as I recall, we didn't
9 have the doctor there.

10 Q Was there anything presented to you about bite
11 marks?

12 A On this case?

13 Q Yes, sir.

14 A I don't recall any bite marks on this one, no.

15 MR. VANCE: We will pass
16 the witness.

17 REDIRECT EXAMINATION

18 QUESTIONS BY MR. FEAZELL:

19 Q Reverend Hooker, by this case, you are talking
20 about Kenneth Franks. Is that correct?

21 A That is correct.

22 MR. FEAZELL: I believe, that
23 is all.

24 THE COURT: May he be excused,
25 gentlemen?

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MR. VANCE: We have no objections.

THE COURT: All right, Reverend Hooker, you are excused and appreciate you coming down. You can go back to Congressman Lee's office.

(Witness excused.)

MR. FEAZELL: Your Honor, may we approach the bench?

THE COURT: All right.

(Conference at the bench.)

M. G. F. GILLILAND, M. D., called as a witness on behalf of the State, having been duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. FEAZELL:

Q Will you state your name for the record, please, ma'am?

A M. G. F. Gilliland.

Q Dr. Gilliland, will you spell your last name?

A G-i-l-l-i-l-a-n-d.

Q All right, how was the flight?

A Lovely.

Q It wasn't too foggy?

A It was a little foggy as we came in.