

Tuesday, May 8, 1984

Defense presses change of venue for Spence

By TOMMY WITHERSPOON
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Defense attorneys will continue attempts Tuesday to persuade 54th State District Judge George Allen to move the trial of David Wayne Spence out of McLennan County.

Spence is one of four men charged with capital murder in the Lake Waco triple murder case.

Court-appointed defense attorneys Russ Hunt and Hayes Fuller have filed a motion asking Allen to move the case to another county because of "injudicious, inflammatory and unfair statements" made about their client during his March 1983 trial for aggravated sexual abuse and because of his alleged involvement in the deaths of Jill Montgomery, Raylene Rice and

Kenneth Franks.

Waco media representatives testified Monday about their coverage of the July 1982 killings and furnished copies of stories and tapes to the court.

Spence, 25, was sentenced to 90 years in prison and fined \$10,000 in March 1983 on charges he sexually abused an 18-year-old Waco man. Allen has scheduled Spence's trial for the death of Miss Montgomery for May 22.

Allen made no ruling Monday on the change of venue motion. He said he would make a decision after John Ben Sutter, a representative of the district attorney's office, testifies May 21.

Testimony is expected to continue Tuesday in the change of venue hear-

Please see ATTORNEYS, Page 12A

Attorneys persisting in venue change

□ From Page 1A

ing. District Attorney Vic Feazell, who is in Washington, D.C., with Sutter attending a prosecutor's conference, is expected to testify.

In other testimony Monday, Waco attorney Robert Canonico told Allen he believes Spence will not be able to receive a fair trial in Waco because of pretrial publicity.

Attorney Ken Crow, who testified he has been involved in three capital murder trials, said he believes an impartial jury panel can be selected in Spence's trial.

"I think you'll find that a lot of people

don't read the paper every day or watch television or listen to the radio," he said.

Hunt and Fuller have commissioned a telephone survey in which Wacoans will be asked about their knowledge and feelings about the triple murder case and the defendants — Spence, Muneer Mohammad Deeb, 24, Anthony Melendez, 24, and his brother, Gilbert Melendez, 28.

One question in the survey asks if the respondent is aware that one of the defendants has been accused of being a member of the Church of Satan and if that information should be disclosed to the jury.

Prosecutors in the March 1983 trial said Spence is a member of the Church of Satan, and Feazell reportedly has made the statement that "David Wayne Spence is the devil," Hunt alleges.

Monday, Allen overruled a defense motion to exclude the testimony of 10 potential witnesses in Spence's trial whose memory has been hypnotically enhanced.

If convicted of capital murder, Spence and the other defendants face death by injection or life imprisonment. Court officials have predicted Spence's trial will last six to eight weeks.