

**A True and Correct Copy**

**of the**

**Trial Testimony of**

**RAY EDWARD PAYNE**

1  
2 MR. HUNT: All right. We'll pass the witness,  
3 Your Honor.

4 MR. BUTLER: That's all, Judge.

5 THE COURT: All right. You may step down, ma'am.  
6 May this witness be excused?

7 MR. HUNT: Yes, Your Honor.

8 MR. FEAZELL: Yes, sir.

9 THE COURT: You may be excused, Mrs. Bernall.  
10 You'll be able to leave. Thank you, ma'am.

11 -----  
12 MR. BUTLER: Call Ray Payne.

13 THE COURT: Have you been sworn, sir?

14 THE WITNESS: Yes.

15 THE COURT: All right. Just have a seat.

16 RAY EDWARD PAYNE,  
17 a witness called by the State, having previously been sworn  
18 to testify, testified on his oath as follows, to-wit:

19 DIRECT EXAMINATION

20 By Mr. Butler:

21 Q State your name please, sir.

22 A Ray Edward Payne.

23 Q Mr. Payne, if you would, keep your voice up so that  
24 everybody on the jury can hear your testimony. All right?  
25 Pretend like you're talking to the very last, furthest  
person, if you have to. But talk loud enough so they can

1 hear you.

2 Where do you live, Mr. Payne?

3 A Northwood Apartments, 1515 College Drive.

4 Q How long have you lived there?

5 A Going on five years.

6 Q How long have you lived in Waco?

7 A All my life.

8 Q Did you live in those apartments back during the summer of  
9 1982?

10 A Yes, sir.

11 Q During that time -- and "that time" meaning the summer of  
12 1982 -- did you know a person named David Wayne Spence?

13 A Right, sir.

14 Q Where did you meet him?

15 A At work, Burke's Aluminum Products.

16 Q Is that where you work?

17 A Right, sir.

18 Q How long have you worked there?

19 A I was there about two years -- two and a half years.

20 Q All right. And was David Wayne Spence working there when  
21 you got a job, or were you working there when he got a job?

22 A I was working there when he got a job.

23 Q And what was your job or your duties or your  
24 responsibilities at that time?

25 A Forman.

1 Q And in fact did David Wayne Spence work under your  
2 direction?  
3 A Right, sir.  
4 Q How long did he work there? Do you know?  
5 A Oh, about two months.  
6 Q During the time he was working there, do you recall what  
7 those months were?  
8 A No, not really.  
9 Q Do you know whether or not in the early part of August of  
10 1982 he was employed there?  
11 A Yes. It was around in August.  
12 Q Specifically, the second week in August, do you recall  
13 anything unusual happening at your apartment?  
14 A Yes. He come up one morning and woke me up.  
15 Q Do you know what time it was?  
16 A About three.  
17 Q Do you know where he lived at the time?  
18 A Yes. He stayed on the other side of the apartments.  
19 Q How far from your apartment?  
20 A Oh, just about a good 20 yards.  
21 Q All right. So it was in the same complex?  
22 A Right, sir.  
23 Q Was it an unusual thing for him to come to your door and  
24 wake you up at three o'clock in the morning?  
25 A Right, sir.

1 Q Had he ever done it before?  
2  
3 A No, sir.  
4 Q Were you asleep at that time in the morning?  
5 A Yes, sir.  
6 Q All right. How did he wake you up?  
7 A Hollered my name, knocked on the door, stayed on the  
8 doorbell.  
9 Q Did you in fact go to the door?  
10 A Cynthia went to the door. She finally woke me up.  
11 Q What happened when you got in there?  
12 A He said he heard on the radio that somebody got killed.  
13 Q Did he say who it was?  
14 A No.  
15 Q What else did he tell you about it, if you recall?  
16 A That time of the morning, it was about three, like I said.  
17 And he said that he heard on the radio that some girls got  
18 killed -- a girl got killed that he knowed, or something  
19 like that.  
20 Q All right. Did he ask you to do anything?  
21 A No, sir.  
22 Q Did you turn your radio on?  
23 A Yes, sir.  
24 Q Why?  
25 A He asked me to turn my radio on and see if we could listen  
to it on the radio. So I turned it on. But we never did

1 hear it that morning.

2  
3 Q How long did he remain there listening to your radio with  
4 you?

5 A About 30 minutes.

6 Q All right. What, if anything, did you do?

7 A Sir?

8 Q What, if anything, did you do while you were sitting there  
9 listening to the radio?

10 A That's about it. He was telling me about he heard -- he  
11 think that Lucky had killed them girls out there.

12 Q All right. Do you know who Lucky was?

13 A Yes. He owned a store, Rainbow Drive-in.

14 Q And David Spence told you that he thought Lucky had killed  
15 what girl?

16 A The girl that was killed at the lake or whatever.

17 Q How long did David Spence stay at your house that morning?

18 A About 30 minutes. 30 or 45 minutes.

19 Q Did he leave of his own accord?

20 A Not really, because I was intending -- I was in a rush to  
21 get back to bed. So in a way I was rushing him out. He  
22 said he couldn't sleep.

23 Q All right. How did you get him to leave?

24 A Well, I told him I would go back to bed; we would talk  
25 about it later on when we he went to work. We had to be at  
work at eight o'clock that morning.

1 Q Did you in fact get to work at eight o'clock the next  
2 morning?  
3 A Right, sir.  
4 Q How did you get there?  
5 A David's car.  
6 Q Now, Mr. Payne, where is Burke's aluminum?  
7 A 1501 Herring.  
8 Q Where is it in relation to that Rainbow Drive-in grocery?  
9 A Right across the street.  
10 Q What happened when you got to work?  
11 A Well, I went on in the job, and David went to the store.  
12 Q Do you know why he was going to the store?  
13 A Well, his girlfriend worked at the store at the time.  
14 Q Did he tell you why he was going over there?  
15 A No, sir.  
16 Q He just went over to the store?  
17 A Right, sir.  
18 Q You went on to work?  
19 A Right, sir.  
20 Q Did anything unusual occur that day at work?  
21 A Yes, sir.  
22 Q What was it?  
23 A I say a little bit before lunch or after lunch Lucky come  
24 in there and told David -- he walked over to the table.  
25 But I had the machines working. Right? And he told David



1 to stay out of his business, or something, you know.  
2  
3 Q All right.  
4 A So I cut the machine off, and they was arguing.  
5 Q You're the foreman, and as foreman, you're responsible for  
6 what happens there on the job; is that correct?  
7 A Right, sir.  
8 Q All right. Did it appear to you that there was an argument  
9 going on?  
10 A Yes. I cut the machine off. I went after Lucky stepped  
11 out. I asked David what was the argument about.  
12 Q Did you hear the words that were spoken between David Wayne  
13 Spence and Lucky?  
14 A Not really. I just know I heard Lucky told David to stay  
15 out of his business, or something.  
16 Q Then what, if anything, did David say back to him?  
17 A He used profanity. I can't remember right what he said.  
18 But they was cussing each other out.  
19 And then Lucky walked out, and I went over there, me and  
20 another employee, and asked David what was going on. And  
21 David said Lucky knowed that he knowed what was going on,  
22 that Lucky had killed them girls, or something.  
23 Q Now, he said what?  
24 A David said that Lucky knew that he knowed what was going  
25 on; that's why he was pissed off at him.  
Q He said that Lucky knew that he knew what Lucky had done.



1 A Right, sir.  
2 Q And that's why Lucky was mad at him?  
3 A Yes, sir.  
4 Q What else happened at that time?  
5 A At that time Lucky, he went on back across the street to  
6 the store, and we went on back to work.  
7 Q All right. And did you have any more conversation with  
8 David Wayne Spence about that situation?  
9 A No, sir.  
10 Q All right. Now, Mr. Payne, did he tell you what it was  
11 that Lucky had done that he knew about?  
12 A Yeah. He killed them girls.  
13 Q Which girls?  
14 A Gayle, Jill -- or I can't remember what the name was. But  
15 I remember that name Gayle or Jill.  
16 Q Did he say where they were when they got killed?  
17 A No, sir.  
18 Q But he said that he knew Lucky had done it?  
19 A Uh-huh.  
20 Q And that's why Lucky was mad at him?  
21 A Right, sir.  
22 Q Did he tell you whether or not he was afraid of Lucky?  
23 A No, sir.  
24 Q Did he appear to you that he was afraid of Lucky?  
25 A No, sir.

1 Q At any time after that did you ever have an occasion to  
2 discuss that conversation with David Wayne Spence?

3 A No, sir.

4 Q Did he work at Burke's Aluminum very long after that?

5 A No, sir.

6 Q Is that same David Wayne Spence, is he present in this  
7 courtroom today?

8 A Yes, he is.

9 Q Would you identify him, please?

10 A Right there. (Indicating.)

11 MR. BUTLER: Your Honor, may the record reflect  
12 that the witness has pointed out the defendant, David Wayne  
13 Spence?

14 THE COURT: The record will so reflect.

15 MR. BUTLER: Judge, we would pass the witness.

16 THE COURT: All right, sir.  
17 -----

18 CROSS-EXAMINATION

19 By Mr. Hunt:

20 Q Ray, I don't have too many questions for you. I want to  
21 try to make sure that the Jury understands what you just  
22 said.

23 Approximately three o'clock in the morning on sometime the  
24 first half of August, David came to your apartment; is that  
25 correct?

1 A Right, sir.  
2  
3 Q He was very upset. Could you tell whether he was angry or  
4 whether he was afraid, or whether he was just upset? How's  
5 the best way you would explain how he acted?  
6 A I would say he was just upset, like he was real concerned  
7 about it.  
8 Q Okay. Trying to get you so that you could listen to the  
9 radio and kind of help him too; does that sound right?  
10 A Yes, sir.  
11 Q Could you tell whether David had been drinking?  
12 A I didn't really notice because I was half asleep at the  
13 time.  
14 Q I can understand that at three o'clock in the morning.  
15 Okay. The two of you listened to the radio during the time  
16 that you talked. As I understand your testimony you're  
17 saying that David said, "Lucky killed those girls at the  
18 lake." Does that sound right?  
19 A Lucky did it again.  
20 Q Lucky did it again. Okay. Did he say Lucky killed a girl  
21 named Gayle, or a girl named Gayle has been killed, or  
22 something like that?  
23 A Not that I remember.  
24 Q Okay. Circulated through the jury right now is a series of  
25 articles about a girl whose body was found at Axtell. The  
body was later identified on approximately the 12th or the

1 14th of August as the body of Gayle Beth Bramlett. Was  
2 that approximately the time that David came over there,  
3 someplace around the 12th or 14th of August of 1982?  
4

5 A Well, that's hard to remember.

6 Q Sometime at least in the first half of August; is that  
7 correct?

8 A It was in the first part of August.

9 Q Okay. Did David ever say to you I killed anybody at the  
10 lake, or did he say Lucky killed somebody at the lake?

11 A He said Lucky did it again.

12 Q Did David ever say, "I was involved and I helped Lucky do  
13 it."?

14 A No.

15 Q He said, "Lucky did it," and "Now Lucky did it again."

16 A Uh-huh.

17 Q Ya'll drove to Burke's Aluminum where ya'll worked, and you  
18 drove in David's car; is that right?

19 A David drove. I rode to work with him.

20 Q You rode, and he drove.

21 A Right, sir.

22 Q Do you remember what kind of car that was?

23 A That was a station wagon, a blue station -- about a '68 '67  
24 model station wagon.

25 Q Ya'll got to Burke's Aluminum around 8:00, and David went  
into Rainbow instead of going directly into Burke's

1 Aluminum; is that right?

2 A Yes, sir.

3 Q Did David tell you later he went in there to find Deeb, and  
4 instead of Deeb being there, Karim was there?

5 A No, sir.

6 Q Did he explain to you that he had cussed out Karim and told  
7 Karim --

8 MR. BUTLER: Your Honor, I'm going to object to  
9 him testifying. Let him ask questions.

10 THE COURT: Sustained.

11 By Mr. Hunt:

12 Q Did he tell you anything about what he had told Karim in  
13 the store about who he thought had done the lake murders or  
14 killed Gayle Beth Bramlett?

15 A No, sir.

16 Q Sometime around let's say between 10:30 and noon is when  
17 Deeb came over to the store, and he and David had a big  
18 argument in front of both you and Charley; is that correct?

19 A Right, sir.

20 Q Okay. And at that time did David again accuse Deeb of  
21 being responsible for the lake murders, or killing that  
22 girl, or those girls?

23 A Yes. After Deeb had left out the shop, went back to the  
24 store, I went up and asked him what was going on.

25 Q So that while they were standing there shouting and you are

1                   having a little difficulty what they were doing, they  
2                   weren't having a friendly conversation, right?  
3                   A     Right.  
4                   Q     Instead, they were standing there shouting at each other  
5                   and using profanity; is that correct?  
6                   A     Uh-huh.  
7                   Q     Answer out.  
8                   A     Yes, sir.  
9                   Q     Okay. Then after Deeb left, first of all, before Deeb  
10                  left, they came close to blows; is that a fair statement?  
11                  A     Right, sir.  
12                  Q     Okay. After Deeb left in a huff, then did David explain to  
13                  you why he had accused Deeb of lake murders?  
14                  A     I had went over and asked him, and he told me.  
15                  Q     What did David tell you about what he had figured had  
16                  happened?  
17                  A     He said Lucky was pissed off at him because he knowed what  
18                  was going on; he knowed that Lucky had killed the girl.  
19                  Q     David knew that Lucky was responsible for killing that  
20                  girl; is that what he said?  
21                  A     Right, sir.  
22                  Q     Did David ever explain to you why he figured that Lucky was  
23                  responsible for killing the girls?  
24                  A     No, sir.  
25                  Q     Okay. Just said obviously that the huff had been caused

1 because Lucky had been upset and David did something --  
2 well, maybe David didn't tell you.

3 Did David ever tell you about going into the Rainbow and  
4 accusing Deeb of it to Karim?

5 A No.

6 MR. HUNT: We'll pass the witness.  
7 -----

8 REDIRECT EXAMINATION

9 By Mr. Butler:

10 Q Why didn't you ask him more about it?

11 A I didn't feel like it was none of my concern. I was on the  
12 job from eight to five. I was going home. That was it.

13 Q Did you think he was serious?

14 A Yeah. It was pretty serious, both of them.

15 MR. BUTLER: Pass the witness.

16 MR. HUNT: We don't have any other questions.

17 THE COURT: You may step down, sir. May this  
18 witness be excused?

19 MR. HUNT: We might have some other questions.

20 THE COURT: You'll still be under subpoena, Mr.  
21 Payne, and I'll excuse from you the courthouse. You may go  
22 and go about your way. But leave how you can be contacted  
23 with the District Attorney so they'll have a phone number  
24 at work and at home so in case it's necessary that you  
25 return for further testimony.