

THE STATE OF TEXAS

IN THE CRIMINAL DISTRICT

VS.

COURT NUMBER FOUR OF

MUNEER MOHAMMAD DEEB

TARRANT COUNTY, TEXAS

EXCERPT FROM STATEMENT OF FACTS

Testimony of CHRISTINE JUHL STERLING

December 7, 1992

APPEARANCES:

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HONORABLE DAVID CHAPMAN
HONORABLE ANDREW SHUVALOV
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Tarrant County Justice Center
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FOR THE STATE

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FOR THE DEFENDANT

BE IT REMEMBERED that on the 7th day of December, 1992,
the Trial on Merits continued on to be heard in the
above-entitled and -numbered cause; and the following
excerpt from proceedings were had before the Honorable Frank
Douthitt, Judge presiding:

LUCY LOPEZ, CSR
Official Court Reporter
Criminal District Court Number Four
Tarrant County, Texas

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1 EXCERPT OF PROCEEDINGS

2 (Afternoon Session)

3 (JURY NOT PRESENT)

4 THE COURT: Are y'all ready?

5 MR. LANE: Judge, our next witness -- we would
6 advise the defense, we're going to switch. We are going to
7 call Christine Juhl Sterling next. And I believe there's
8 some 404(b) material that -- was there?

9 MR. CHAPMAN: Yeah, I checked. There's some
10 404(b) material that we gave notice of in accordance with
11 the rules and....

12 THE COURT: When did you-all file that notice? I
13 tried to find it while ago and couldn't.

14 MR. CHAPMAN: It's over here. I was looking at
15 it.

16 MR. CHAPMAN: We filed it September 21st, 1992.

17 (Pause in proceedings.)

18 THE COURT: I assume as it relates to Diamond, it
19 is no longer an issue.

20 MR. LANE: I'm sorry, relates to what?

21 THE COURT: Diamond. I mean, she is already
22 gone. What is the relevance of (1)(a)?

23 MR. DeGUERIN: I don't have it in front of me,
24 either, Judge.

25 THE COURT: Okay. Do you want me to recite it to

1 you?

2 MR. DeGUERIN: Let me just see what it says.

3 (Pause in proceedings.)

4 MR. DeGUERIN: Judge, I'm just a little bit caught
5 unaware because I didn't get notice that they were going to
6 have Christine here today until today. Otherwise, I would
7 have brought my copy of that particular motion. And also,
8 over the lunch hour, I have gotten my files on Christine
9 Juhl, but I still didn't expect her to testify until after
10 the next witness. So I apologize to the Court. But I would
11 like to resume our agreement of letting me know at least a
12 day in advance of who the witnesses are.

13 MR. LANE: We have, Judge. All we have done -- I
14 told him who was going to testify this afternoon. All we
15 have done is switch Christine in front of Jerrell. That's
16 -- we told him who we were calling.

17 THE COURT: Okay. Well, what issue is there about
18 -- about the notice that you have given under 404(b) for me
19 to decide, if any, before we start the testimony?

20 MR. DeGUERIN: It is not admissible. We have
21 moved to -- we responded to that notice of 404(b) by filing
22 the motion in limine.

23 THE COURT: I understand that, but that doesn't
24 keep it from being admissible. I mean, some of it,
25 obviously, is admissible, some of what they have given

1 notice of in there.

2 And my question was as to paragraph (1)(a) dealing
3 with the marijuana. What is the relevance?

4 MR. CHAPMAN: I'm sorry --

5 (Pause in proceedings.)

6 THE COURT: The way -- let me tell you what my
7 understanding of my job is right here at this point, is I
8 first need to determine if the extraneous conduct is
9 relevant to what we are doing. And if yes, then I've got to
10 determine whether it's too damaging or inflammatory to be
11 admitted.

12 Now, it's my understanding that the burden is on
13 the proponent of that evidence to show both of those
14 things.

15 MR. DeGUERIN: Yes, sir. But then also to show
16 that it goes to some disputed issue in the case, beyond
17 relevance, under 404(b), that it goes to something other
18 than character, some disputed issue mentioned by 404(b).

19 MR. CHAPMAN: Your Honor ---

20 THE COURT: Well, unless it's for motive,
21 opportunity, intent, preparation, those kinds of things.

22 MR. CHAPMAN: Your Honor, I don't think the issue
23 has to be disputed under the new rules. It has to be
24 material to an issue under the new rules. Under the new
25 rules, we don't have to have a dispute as to whether ---

1 THE COURT: That may be right.

2 MR. CHAPMAN: --- to whether a certain thing has
3 happened.

4 THE COURT: I still get back to the first question
5 that I asked. What is the relevance of (1)(a)?

6 MR. CHAPMAN: We are not going to offer that
7 testimony.

8 THE COURT: That must mean it's not relevant.

9 MR. CHAPMAN: I didn't say that, Judge. I said we
10 were not going to offer it.

11 MR. LANE: Not at this time, not on direct
12 examination.

13 MR. CHAPMAN: At this time.

14 THE COURT: All right. Now, I haven't got it in
15 front of me, but -- okay. What is the relevance to (1)(b)
16 about the car?

17 MR. CHAPMAN: That doesn't help. I need to look
18 at it myself, Your Honor. I'm sorry, I don't have a copy of
19 the motion myself.

20 That goes to prove intent. We believe the basic
21 issue in this case is intent, that the Defendant's testified
22 before and according to the opening statement, that his
23 comments about wanting to hire David Spence to kill somebody
24 were just jokes and that brings squarely into point the
25 issue of intent and his intent to make money off another

1 insurance fraud scheme goes directly to the issue of intent
2 and its probative value clearly outweighs its prejudice
3 effect.

4 THE COURT: Okay. What is the next one?

5 MR. DeGUERIN: Do you want a response at this
6 time?

7 THE COURT: Okay. Go ahead.

8 MR. DeGUERIN: If it's correct, what it shows only
9 is possibly a scheme to wreck a car to get insurance
10 proceeds for a car. That has -- has nothing to do with
11 killing someone to get insurance proceeds. That is a
12 completely different sort of scheme, a completely different
13 type of intent that is necessary, and it is not a similar
14 crime. It is -- no stretch of the imagination. If it were
15 a separate scheme to kill somebody, arguably it might be
16 relevant. But it's an extraneous offense that is not
17 logically persuasive or probative on the issue of whether
18 Deeb hired Spence to kill Gail Kelley.

19 THE COURT: Even when it's the same two parties.

20 MR. DeGUERIN: Yes.

21 MR. CHAPMAN: Your Honor, on the issue of intent,
22 we don't have to have signature offenses. That is clear
23 from the caselaw.

24 THE COURT: Don't have to have what? Signature?

25 MR. CHAPMAN: Signature offenses, the way that you

1 do an identity issue. We don't have to prove exactly the
2 same sort of scheme and -- and the same sort of crime in
3 order to have it admissible on intent.

4 THE COURT: Okay. What is the next issue?

5 MR. CHAPMAN: (1)(c) is the question of paid
6 people to marry him. We are not going to introduce evidence
7 of that at this time.

8 THE COURT: Okay.

9 MR. CHAPMAN: The next is hearsay statements. I
10 don't know, do we want to go into that now, too, the hearsay
11 statements?

12 MR. LANE: As I understood the motion in limine,
13 anything that might come out.

14 MR. CHAPMAN: Okay. We expect Christine Sterling
15 to testify that David Spence told her that insurance policy
16 should -- signed up for at the Rainbow store was a life
17 insurance policy and that she signed the insurance
18 application at Spence's instigation.

19 THE COURT: At Spence's instigation?

20 MR. CHAPMAN: At Spence's instigation.

21 MR. DeGUERIN: That is hearsay from Spence. It's
22 not Deeb's saying that at all. That is hearsay.

23 MR. CHAPMAN: Well, Your Honor, we believe it is a
24 statement of a co-conspirator in the course of a conspiracy.

25 MR. DeGUERIN: They have got their cart before the

1 horse. They haven't proved any conspiracy. They've got to
2 do that first.

3 THE COURT: Okay. Sustained.

4 MR. CHAPMAN: The -- it is also a declaration
5 against interest -- I'm sorry, I shouldn't speak with my
6 back to the court reporter.

7 THE COURT: It is as far as Spence is concerned,
8 but he is not on trial.

9 MR. CHAPMAN: Declarations against interest are
10 exactly that; they are declarations by declarants who are
11 not on trial. It is admissions that are involved with
12 people who are on trial. That's 801(b), I believe it is.
13 Declarations against interest apply most often to people who
14 are not on trial. That is what all the cases say and all
15 the commentators. They can include admissions by a party
16 defendant, but it's most often directed to declarations by
17 non-parties. That is what you prove up in declarations
18 against interest.

19 THE COURT: Okay. I sustain the Defendant's
20 objection to that one.

21 What is the next one?

22 MR. CHAPMAN: (3)(a) is -- the State expects
23 Christine Sterling to testify that after the murder
24 -- murders, David Spence began writing hot checks and she
25 received calls about some of the checks. When she brought

1 up this matter to Spence, he said, "I will have the money."

2 MR. DeGUERIN: Hearsay. Spence saying something
3 to her about writing hot checks. That is not relevant or
4 material and -- to any issue tying Deeb to their theory.

5 MR. CHAPMAN: Well, it tends to -- I think it
6 tends to prove that Spence expected money from Deeb for
7 carrying out the plan to murder Gail Kelley, even though he
8 failed the first time, Your Honor.

9 THE COURT: Sustain the objection.

10 MR. CHAPMAN: (4)(a), State expects Christine
11 Sterling to testify that approximately two weeks before the
12 murder, she heard the Defendant ask David Spence if he would
13 kill Gail Kelley for money or kill someone for money is ---

14 THE COURT: She heard who ask that?

15 MR. CHAPMAN: She heard the Defendant, Muneer
16 Deeb, ask David Spence if he would kill Gail Kelley or would
17 kill someone for money.

18 THE COURT: In -- that was in her presence?

19 MR. CHAPMAN: That was in Christine's presence,
20 she heard that.

21 MR. DeGUERIN: What she said under oath before,
22 Judge, is that it was a conversation between Spence and Deeb
23 in which Spence and Deeb were joking about killing -- "Would
24 you kill somebody for money?" Never any mention of Gail
25 Kelley. The first time that Gail Kelley's name was ever put

1 into that incident was in the State's 404(b) response.

2 THE COURT: Well, I wasn't at the last trial.
3 I'll overrule the objection to that.

4 MR. DeGUERIN: She didn't testify at the last
5 trial. It was Grand Jury testimony.

6 THE COURT: Whenever it was. The last time she
7 testified.

8 MR. CHAPMAN: (4)(b), the morning after the
9 murders, but before the bodies had been discovered, the
10 Defendant came into the store and, referring to Kenneth
11 Franks, told Christine Sterling, "They killed the SOB and
12 I'm glad."

13 MR. DeGUERIN: Well, in the first place -- well, I
14 think that was mistaken testimony on her part, which she
15 cleared up or tried to clear up in the Grand Jury testimony
16 and ---

17 THE COURT: Well, that goes to weight and not
18 admissibility.

19 MR. DeGUERIN: I know it does.

20 THE COURT: Okay. If that is an objection. It's
21 overruled.

22 What is next?

23 MR. CHAPMAN: We are talking strictly about
24 Christine Sterling at this point?

25 THE COURT: That is what I thought.

1 MR. DeGUERIN: Yeah.

2 MR. CHAPMAN: That is my -- I believe that's all
3 we have on ---

4 THE COURT: Let's go back to the car wreck deal.
5 I will overrule the objection on that one.

6 MR. DeGUERIN: Judge, one reason that I was
7 complaining when we started about not getting some advance
8 notice of this is that I've got a bunch of cases back at my
9 hotel room that I was prepared for on that issue.
10 Extraneous offense cases. Dissimilar in some respects on
11 the question of intent or other questions under 404(b) in
12 which the admission of dissimilar extraneous offenses have
13 been held to be error.

14 Now, if you examine the logic of that evidence, a
15 discussion between Spence and Deeb about wrecking a car in
16 order to get the insurance money for it, has no logical
17 bearing, no relevance on whether Deeb would hire Spence to
18 kill Gail Kelley for insurance proceeds. That is a -- a
19 horse of a completely different color. It is -- it requires
20 a completely different mindset to agree to kill somebody
21 than it does to commit a little minor insurance fraud on
22 wrecking a car.

23 It just -- it is highly prejudicial, of course.
24 It's not probative. Any probative value that it has is
25 outweighed by the prejudice. And 404(b) is a rule of

1 exclusion. It is a rule that says you cannot introduce that
2 evidence unless it does bear a logic -- logical relevance to
3 an issue in the case; and it does not. The issue here is
4 whether Muneer Deeb hired David Spence to kill somebody for
5 insurance proceeds.

6 Now, that is -- I don't know how to say it any
7 stronger. It is just not the same mindset, the same intent.

8 THE COURT: The only difference is whether or not
9 it is a killing or a wrecking, isn't it?

10 MR. DeGUERIN: That is like saying the only
11 difference between a Democrat and a Republican is one is a
12 Democrat and one is a Republican. Sure that is the only
13 difference, but it is the difference. It is a great
14 difference.

15 THE COURT: Let me read you something: Where the
16 issue addressed is the Defendant's intent to commit the
17 offense charged, the relevancy of the extrinsic offenses
18 derived from the Defendant's indulging himself in the same
19 state of mind in the perpetration of both the extrinsic and
20 charged offense.

21 MR. DeGUERIN: Exactly. The same state of mind.
22 Judge, it takes a different state of mind to agree to kill
23 somebody than it does to commit a little minor automobile
24 insurance fraud.

25 THE COURT: Well, if the main purpose for the

1 killing was to collect the insurance proceeds, it wouldn't
2 be different.

3 MR. DeGUERIN: Of course it is different, Judge.

4 THE COURT: I admit that you'd have to have a much
5 more sinister and culpable mental state, but it -- still,
6 it's the same -- what I'm worried about ---

7 MR. DeGUERIN: Capital murder is a specific intent
8 crime, a specific intent to cause the death of the deceased.

9 In insurance fraud, the intent required is an
10 intent to steal money from an insurance company. Now, that
11 is a different intent, Judge. By statute, the intent
12 required in a capital case is different from simply the
13 intent to do a crime.

14 MR. CHAPMAN: Your Honor ---

15 THE COURT: Wait just a minute. Let me finish
16 reading one thing right here.

17 (Pause in proceedings.)

18 THE COURT: U.S. versus Gruta Dario, I guess it
19 is. Evidence of prior bad acts is admissible if intent is
20 automatically an issue. Parenthetically, specific intent
21 crime. Or, if the Defendant specifically puts intent in
22 issue.

23 Then it goes on to define the difference between
24 specific intent and knowing act.

25 MR. DeGUERIN: Well, that is the same thing we are

1 saying, Judge. This is a specific intent crime on trial
2 here. If they had some ---

3 MR. CHAPMAN: No, it's not.

4 MR. DeGUERIN: It certainly is a specific intent
5 crime. You have to intend to cause the death of an
6 individual. It is a specific intent. That is the only
7 intent that would satisfy this indictment, that would
8 satisfy -- that would support a guilty verdict. Not the
9 intent to wreck a car for insurance proceeds; that is a
10 completely different kind of intent.

11 MR. CHAPMAN: I point out that we are talking
12 about murder for hire primarily here, Your Honor, and it is
13 not 19.03(a)(2) which requires a higher level of intent;
14 that is, murder in the course of a felony.

15 Under 19.03 -- 19.03(a)(3), you commit ordinary
16 murder -- that is, an intentional or knowing murder -- and
17 you do it for remuneration.

18 Now, as the Court knows, an intentional murder, as
19 opposed to a capital murder, can be done with the intent to
20 cause death or to cause serious bodily injury. And we can
21 have merely an intent to cause serious bodily injury and
22 still get capital murder under this phase of the statute.

23 Now, that, to me -- I mean, that -- I still think
24 that's the same thing. We think he intended to cause death
25 and we are proving that. But I just don't think this idea

1 of special intent is anything but a red herring.

2 MR. DeGUERIN: Well, we have set it up all through
3 this trial, through jury selection, the State talked about
4 the specific intent required. In fact, it is a specific
5 intent crime. That -- you can't have a felony murder and a
6 capital murder, murder for hire, at the same time. You
7 can't just be committing a dangerous act and have it turn
8 into murder and that be a capital murder. It is just -- it
9 can't happen.

10 I've got a few -- a couple of extraneous -- recent
11 extraneous offense cases, Judge.

12 THE COURT: Most of them that I've got here are,
13 frankly, federal cases.

14 MR. DeGUERIN: Well, I've got a bunch of them,
15 Judge, in my hotel room. If I had've known in advance that
16 this was going -- I would have gotten it.

17 Chris ---

18 THE COURT: One at a time. Y'all quit arguing
19 about who told what when. I don't care when that happened.
20 I'm -- right now, I'm trying to figure out the answer to a
21 question. That is all I want to know.

22 MR. DeGUERIN: Christopher is 833 Southwest 2d
23 526, 1992, Texas Criminal Appeals case.

24 THE COURT: What was that again?

25 MR. DeGUERIN: 833 526.

1 Here is another one. Peterson, 836 Southwest 2d
2 760. That is a capital murder case, I believe -- no, I'm
3 not sure that it is a capital murder case.

4 THE COURT: 833 526.

5 MR. DeGUERIN: Here is another case that bears on
6 this being a specific intent crime, Kenneman, at 791
7 Southwest 2d 84.

8 THE COURT: Well, I don't have really much
9 argument with that.

10 MR. CHAPMAN: Christopher is the case that says
11 you can't put on extraneous offense just to prove probable
12 cause when probable cause is not an issue.

13 Intent is an issue in this case. He said so when
14 he talked about that Christine Juhl is going to be shown by
15 the Defense to have been mistaken in the date and mistaken
16 about the fact that these two people were kidding about
17 hiring somebody to kill somebody. That puts intent squarely
18 in issue and he did it out of his own mouth, Your Honor.

19 MR. DeGUERIN: Intent is an issue, there is no
20 question of that, but not because of erroneous
21 interpretation of the statement that Mr. Chapman just made
22 and that is not what I said and the mistake that she made
23 didn't have anything to do with intent. It had to do with
24 when Deeb told her that Kenneth Franks had been killed.
25 That is a different -- that is a different matter.

1 It is real simple, Judge. The intent to kill,
2 which is a necessary element, and what is in -- the intent
3 to hire someone to kill someone, which is the necessary
4 element that the State has to prove, is not the same as the
5 intent to wreck a car for insurance purposes.

6 THE COURT: But you are talking about -- you keep
7 talking about the act, the ultimate act involved, and what
8 I'm thinking about is the illegal intent demonstrated by
9 being able to -- knowing the scheme of how to pay for, in
10 this case, a murder, by a vehicle -- that is a bad word
11 -- by a method of collecting on an insurance policy and
12 having been familiar with doing that before, even though the
13 insured event is something else, seems to me to be relevant
14 to that.

15 MR. DeGUERIN: Judge ---

16 THE COURT: So it seems to me the issue is whether
17 or not the probative value is outweighed by the prejudicial
18 effect and I don't see how it could be.

19 MR. DeGUERIN: Well, it certainly is because what
20 you are doing by painting with that broad a brush, just
21 saying this evil intent or this criminal intent to do
22 something wrong, that is what 404(b) is designed to guard
23 against; proving a person to be a criminal generally,
24 proving a person able to form evil intent.

25 THE COURT: That is not what I am talking about.

1 MR. DeGUERIN: And the intent to kill somebody, to
2 hire a killing, is completely different from the intent to
3 go wreck a car to -- for insurance proceeds.

4 Now, the evidence would show that that was never
5 done. It was simply talked about. But it gets down to
6 whether it's the same intent or not. Not just showing that
7 at some time, Mr. Deeb did something bad, which is what
8 404(b) guards against.

9 THE COURT: I agree with that.

10 MR. DeGUERIN: But showing that it was the same
11 intent. That is the only way it could be logically
12 relevant.

13 THE COURT: That is what appellate courts are for.

14 MR. DeGUERIN: Well, it is not, Judge; it's what
15 you are for, in the first place. You can't show your office
16 to the appellate court; it's your responsibility ---

17 THE COURT: That's what I'm trying to meet. I
18 think it's admissible for that purpose. We just don't agree
19 on the same theory and that is why I said that is what
20 appellate courts are for.

21 I think that conversation is admissible. I think
22 it goes to intent.

23 MR. DeGUERIN: It's not necessary for me to object
24 in the presence of the jury?

25 THE COURT: If we are specific enough on it, I

1 don't have a problem with that.

2 MR. DeGUERIN: We know exactly what we are talking
3 about.

4 THE COURT: I always have problems with running
5 objections because if they get out in the gray area, you are
6 going to think you had an objection and I might not think
7 you did, but surely this is specific enough we don't have a
8 problem.

9 MR. DeGUERIN: If -- there is a written motion in
10 limine on it, we have discussed it outside of the jury's
11 presence, the ruling on it outside the jury's presence, and
12 I want to cross-examine it and rebut it and contest it
13 without waiving an objection to it.

14 THE COURT: Well, now, I'm not going to address
15 the issue of whether you get to do that or not. That, sure
16 enough, is for the appellate court. But I won't make you
17 object to say you've got an objection. But I'm not going to
18 sit here and tell you that the way you handle a
19 cross-examination is still going to have that objection
20 preserved, because I have seen more objections that might
21 have been good cured by the cross-examination than anything
22 I can think of. Either that or later evidence. I am not
23 saying that whatever you do in the rest of this trial
24 doesn't cure an objection you made. At any time I'm not
25 going to say that. But I'm saying you don't have to object

1 to preserve your objection -- object in front of the jury to
2 preserve your objection, to the admission of that
3 conversation about the car wreck.

4 MR. DeGUERIN: Judge, I think the law is real
5 clear that I don't waive an objection to erroneously
6 admitted evidence by contesting the truth or the accuracy of
7 that testimony once it is in.

8 THE COURT: Well, I am not arguing with you about
9 that. I'm saying it's not my job to acknowledge and agree
10 to it here. If it's the law, it's the law without my
11 agreeing to it. And I'm not going to agree to it.

12 MR. DeGUERIN: I'm just giving notice, Judge.

13 THE COURT: I understand.

14 Okay. Are we straight on what is in and what is
15 out?

16 MR. DeGUERIN: Well, is the witness straight?
17 That is a little bit more important.

18 THE COURT: That is up to the prosecutors to take
19 care of.

20 MR. DeGUERIN: Judge, we've got witnesses that
21 eager to say things that will cause Mr. Deeb to be
22 convicted. I think now, after a week and a day of
23 testimony, roughly, you can see that. There are witnesses
24 that want to say something damaging to Mr. Deeb.

25 I would ask the Court take the responsibility for

1 making sure that the State -- that the witness knows the
2 limitations that the Court has made on her testimony.

3 THE COURT: I am not going to instruct witnesses
4 on what they can testify to and what they can't. If we get
5 into somebody that has a hearsay problem, keeps blurting it
6 out, yes, I will explain that to them. I expect the State
7 to do this. If the State doesn't get it done, they are
8 going to be committing error.

9 MR. LANE: I'm sorry, Judge?

10 THE COURT: I said, if the State can't get their
11 witnesses instructed, you are going to be committing error.
12 I don't think it is up to me to train your witnesses or the
13 defense's.

14 MR. LANE: I will mention it to them in the
15 hallway, if the Court will give me a brief synopsis. That
16 the Court sustained the ruling as far as the marijuana?

17 THE COURT: I'm going to let you prove through her
18 the conversation about -- with Spence about the car
19 -- wrecking the car for insurance proceeds. I'm going to
20 let you prove through her the conversation with Spence
21 about....

22 MR. LANE: Having someone killed.

23 THE COURT: Having someone killed for insurance
24 policy -- I can't remember what context. Whatever it was in
25 the....

1 MR. LANE: I understand.

2 THE COURT: Okay. Ask Spence to wreck the car to
3 obtain insurance proceeds, admissible.

4 About the insurance policy at Spence's
5 instigation, not admissible.

6 MR. LANE: Judge ---

7 THE COURT: Hot checks, not admissible.
8 What were you going to ask?

9 MR. LANE: Hot checks in reference to David
10 Spence?

11 THE COURT: Yeah.

12 (4)(a), heard Defendant ask Spence if he would
13 kill Gail Kelley for money, admissible.

14 (4)(b), "they killed the SOB and I'm glad,"
15 admissible.

16 I think that is all that is in issue on this
17 witness.

18 MR. LANE: The only one that I'm not sure about,
19 Judge, is in reference to the insurance policy. It's
20 already been admitted before this jury, without objection,
21 an insurance policy that Christine Juhl Spence had taken out
22 that shows David Spence as the beneficiary of that insurance
23 policy and shows him as the husband and her as the wife.
24 And that is already in evidence. I'm not going to be
25 allowed to talk to her about that?

1 THE COURT: Actually, I haven't looked at those
2 exhibits. Y'all admitted them by agreement and I didn't --
3 even enter my mind when I ruled on that.

4 MR. LANE: Can I show them to the Court? If I can
5 find them.

6 THE COURT: Yeah.

7 (Pause in proceedings.)

8 THE COURT: What is her last name now? Sterling?

9 MR. CHAPMAN: That's correct, Your Honor.

10 MR. LANE: Judge, I will show you what is before
11 this jury as State's Exhibit 106.

12 THE COURT: So, is a summary of what it is that
13 you are interested in is her being able to say she did this
14 because he told her to, basically?

15 MR. LANE: Basically, what the State intends to go
16 into is the facts and circumstances surrounding the taking
17 out of that insurance policy, which I will advise the Court
18 happened at or near the time that the insurance policies
19 were taken out on Deandra Gail Kelley. There're similarity
20 in circumstances involved with the application being taken
21 out, as well as testimony concerning the delivery of these
22 policies and they were all done in the presence of Mr. Deeb
23 and Mr. Spence and Christine Spence and Gail Kelley. I
24 mean, all of this was done at the same time.

25 THE COURT: Okay. Well, I think probably that is

1 admissible. I didn't realize it was policy in here like
2 that. I think you can go into that.

3 MR. DeGUERIN: You are not talking about the
4 statements that Spence made to her about it?

5 MR. LANE: Whatever hearsay statements. I assume
6 you will make the proper objections at the time. I'm
7 talking about being able to get into the facts and
8 circumstances surrounding this insurance policy.

9 THE COURT: I don't know whether the statements
10 will be admissible or not at the time. What I'm saying to
11 you is, when I ruled on that while ago, I didn't realize
12 that the policy was -- on her, was already in evidence.

13 MR. LANE: Without objection.

14 THE COURT: Yeah, well, I mean, y'all agreed to
15 put in five and you sponsored -- I think five, and you
16 sponsored four of them and he sponsored one. I didn't look
17 at the policies at that time.

18 All right. Are we finally ready for the jury?

19 MR. LANE: Let me tell her real quick.

20 THE COURT: All right.

21 (Pause in proceedings.)

22 THE COURT: Hurry.

23 MR. LANE: Okay.

24 (Pause in proceedings.)

25 THE COURT: Right here. Hold up your right hand,

1 please.

2 (Witness sworn.)

3 THE COURT: The witness rule is in effect, which
4 means that you may not remain in the courtroom while
5 evidence is being taken. You may not discuss the evidence,
6 including your own testimony, with other witnesses or with
7 anyone else except the lawyers in the case or their
8 representatives, their investigators.

9 Pull that thing pretty close to that.

10 Okay. Bring the jury in.

11 (JURY PRESENT)

12 THE COURT: Okay go ahead.

13 Whereupon,

14 CHRISTINE JUHL STERLING,

15 a witness called on behalf of the State, having been duly
16 sworn, testified on her oath as follows:

17 DIRECT EXAMINATION

18 BY MR. LANE:

19 Q. Will you state your name for the jury, please,
20 ma'am?

21 A. Christine Ann Sterling.

22 Q. Christine, you go by Christine?

23 A. Yes, sir.

24 Q. Or Chris?

25 A. Chris is fine.

1 Q. Chris, how are you currently employed?

2 A. I am an interior design consultant for a company
3 in Colorado.

4 Q. How old a woman are you, Chris?

5 A. Excuse me?

6 Q. How old a woman are you?

7 A. I'm 28.

8 Q. Do you have any kids?

9 A. Oh, yes, sir. I have a one-year-old son. He
10 turned one on Saturday.

11 Q. Are you a married lady?

12 A. Yes, sir. I have been married six years.

13 Q. And is your husband present in the courtroom?

14 A. Yes, he is.

15 Q. Okay. Chris, I want to ask you some questions and
16 I'm going to direct your attention back to the year 1982.
17 Okay?

18 A. All right.

19 Q. You and I have had an opportunity to go over some
20 of this on at least three occasions, have we not?

21 A. Yes, we have.

22 Q. I want you to relax the best you can. If you need
23 water or you don't understand the question, I just want you
24 to let me know. Okay?

25 A. Yes, sir.

1 Q. Where were you living back in the summer or the
2 spring of 1982?

3 A. The summer of 1982, June and July -- in the latter
4 part of June, in a small apartment behind Rainbow Drive-In.
5 And then in July, in the Northwood apartments.

6 Q. Okay.

7 MR. DeGUERIN: Could you kind of bring the
8 microphone down a little bit? A little bit closer.

9 THE COURT: Get it pretty close to you.

10 MR. DeGUERIN: Now you can just ignore it.

11 BY MR. LANE:

12 Q. How long -- was this in Waco, Texas?

13 A. Yes, sir.

14 Q. How long had you lived in Waco?

15 A. Since I was seven years old.

16 Q. Okay. Do you have family down there in Waco?

17 A. Yes, sir, I do.

18 Q. What did your family consist of?

19 A. When we first moved there, there was nine kids, my
20 mother and father and my grandmother.

21 Q. Okay. And you lived in Waco from the age of
22 seven, did you say?

23 A. Seven.

24 Q. Up until?

25 A. Up until the late summer of '82.

1 Q. Okay. In the spring of 1982, were you employed?

2 A. Yes, sir, I was.

3 Q. Okay. How were you employed?

4 A. In March of '82, I went to work at Rainbow
5 Drive-In, working with Deeb Muneer.

6 Q. When you say the Rainbow Drive-In, is that the
7 Rainbow Drive-In that is located in Waco, Texas?

8 A. Yes, sir.

9 Q. Okay. Now, Christine, I want you to think back.
10 I am talking about March of that year. I want to think back
11 prior to time. Let me ask you: Do you know an individual
12 by the name of Muneer Deeb?

13 A. Yes, sir, I do.

14 Q. Is he present in the courtroom?

15 A. Yes, sir.

16 Q. Is he the gentleman that is standing right now?

17 A. Yes, he is.

18 MR. LANE: May the record reflect that the witness
19 has identified the Defendant?

20 THE COURT: The record will so reflect.

21 BY MR. LANE:

22 Q. When did you first meet the Defendant in this
23 case?

24 A. The first time I ever met him was a couple of
25 years prior. I worked for Taco Torch and in Hewitt, Texas,

1 right outside of Waco. And he worked for Datapoint and he
2 would come in and eat quite a bit in the evenings during his
3 breaks.

4 Q. Just for everybody's edification, I think we can
5 all guess what a Taco Torch is, but what is it?

6 A. It is a restaurant, fast-food restaurant.

7 Q. And you were working there at the Taco Torch?

8 A. Yes, sir.

9 Q. How long had you been working at the Taco Torch?

10 A. I worked at Taco Torch for a little over three
11 years, from '79 until '81.

12 Q. At some time during that period of time, did you
13 -- did you meet an individual that you later knew to be
14 David Spence?

15 A. Yes, sir.

16 Q. Okay. Did you meet David while you were working
17 at Taco Torch?

18 A. Yes, sir.

19 Q. Okay. Let me show you what's before this jury as
20 State's Exhibit No. 112 and let me ask you if you recognize
21 the person that is depicted in that picture.

22 A. Yes, sir. That is David Wayne Spence.

23 Q. Okay. And you met David Spence approximately
24 when?

25 A. In late '81.

1 Q. Okay. Was it at or near the time that you had met
2 Muneer Deeb?

3 A. It was after I had met Muneer Deeb for the first
4 time.

5 Q. Okay. Now, where were you living at this point in
6 time? When you were working at the Taco Torch and had met
7 Muneer Deeb and David Spence, where were you living at that
8 time?

9 A. When I met Muneer Deeb, I was living in the Taco
10 Bell (sic) on Hewitt -- in the Hewitt Taco Bell, which is
11 right outside of Waco. When I met David, I was working --
12 they had transferred me over to the Waco Drive store, which
13 was all the way on the other side of Waco, and I was living
14 at Tim Crayon's house and his house was directly behind the
15 Taco Bell.

16 Q. You say Taco Bell.

17 A. I mean Taco Torch.

18 Q. I have never heard of Taco Torch, so I don't know
19 -- is the Taco Torch like a Taco Bell?

20 A. Yes, sir, the same principle.

21 Q. Okay. And so, in 1981, or at least a period of
22 time you are talking about when you met David Spence and
23 Muneer Deeb, initially you were living at the Taco Torch?

24 A. Yes, sir. Shortly -- well, I was 16 years old and
25 my mother had kicked me out of my home, out of our home, and

1 I was living in the Taco Torch in the back room until I
2 could find a place to live.

3 Q. Where did you find a place to live?

4 A. Tim Crayon, which was the manager of the Waco
5 Drive store, had asked me to transfer me over there, because
6 I did not drive and I had no transportation whatsoever, and
7 he had agreed that if they transferred him -- if they
8 transferred me over to the Waco Drive store, that I could
9 rent an upstairs room from him and he would just let me pay
10 it off in payments because I didn't have any money.

11 Q. You were 16 years old at the time?

12 A. Yes, sir.

13 Q. Okay. So, now, directing your attention to this
14 period of time, when you were living with your store
15 manager, is this the period of time in which you met David
16 Spence?

17 A. Yes, sir.

18 Q. Okay. Describe for the jury, if you will, the
19 first time that you recall meeting David Spence.

20 A. It was an evening in August, September, or I can't
21 exactly remember the dates now. I'd say that ---

22 Q. Of what year?

23 A. Of '81.

24 And I was working the night shift and I had waited
25 on him and he had left and he was over at Tim Crayon's house

1 and they were partying, as far as drinking and, you know,
2 listening to the radio and thinks like that.

3 They -- he came back a little while later and
4 asked me to go out with him and I refused.

5 And he left again and then he came back in and
6 after the third time, he -- he handed me his wallet and he
7 said, "I'm a very nice man. I wouldn't hurt you. You can
8 keep my wallet just to prove that I would never hurt you.
9 But I'd really like you to go out with all of us tonight."

10 And I agreed and went out with him to his -- to
11 his house with several other people.

12 Q. Okay. When you say his house, whose house are you
13 talking about?

14 A. His mother's house on 1901 East 15th Street.

15 Q. Do you remember what his mom's name was?

16 A. Juanita White.

17 Q. If I don't fall off on my head over here....

18 (State's Exhibit No. 115 marked.)

19 BY MR. LANE:

20 Q. Chris, let me hand you what has been marked for
21 identification purposes as State's Exhibit 115 and ask you
22 if you can identify what that is.

23 A. This is Juanita White's house on 15th Street.

24 Q. Is that a photograph?

25 A. Yes, sir, it is.

1 Q. Does that photograph fairly and accurately depict
2 the scene as it then and there existed back in 1981; more
3 specifically, being Juanita White's house?

4 A. It is Juanita White's house. Back then, the lawn
5 wasn't mowed. They parked in the front yard. It wasn't a
6 very well-kept house. The inside was, his mother was a very
7 meticulous cleaner, but the outside was never -- I mean,
8 there were weeds in the front yard.

9 MR. LANE: Judge, we'll offer State's Exhibit 115.

10 MR. DeGUERIN: No objection.

11 THE COURT: 115 is admitted.

12 (State's Exhibit No. 115 received.)

13 MR. LANE: May I publish this, Judge?

14 THE COURT: Yes.

15 BY MR. LANE:

16 Q. Now, is that the house that y'all went to that
17 evening, the first evening that you went out with David
18 Spence?

19 A. Yes, sir.

20 Q. Now, describe for this jury, if you will, how
21 David Spence appeared back -- is this August of 1981?

22 A. August or September of 1981.

23 Q. August or September of 1981.

24 Describe David Spence for this jury. Physically,
25 how did he look?

1 A. He was very well kept. He was clean shaven. No
2 mustache or a beard. He blow-dried his hair back and was
3 wearing a very nice shirt and dress pants and boots. Very
4 clean-cut. Looked like a lot like just your everyday
5 college kid, I mean, as far as his appearance. He was very
6 nice and very yes, ma'am and no, ma'am. And he was probably
7 one of the only ones that ever treated me like a lady when I
8 first met him. He was a very showy type of person.

9 Q. This would have been August or September of 1981?

10 A. Yes, sir.

11 Q. Now, this evening, this first evening that you
12 went out with David Spence, you went to Juanita White's
13 house for a party, did you say?

14 A. Well, it was a bunch of friends getting together
15 and we cooked dinner and a lot of them were drinking, yes.

16 Q. Okay. Who do you recall being there that night?

17 A. Jody and Rico, which were my bosses from the
18 Hewitt Drive store, before I transferred to the Waco Drive
19 store. And my boss, Tim Crayon, from the Waco Drive store.
20 Gilbert and Tony Melendez. And David and I.

21 (State's Exhibits Nos. 116, 117 marked.)

22 BY MR. LANE:

23 Q. Chris, let me show you what has been marked for
24 identification purposes as State's Exhibit 116 and 117, and
25 ask you if you can identify those for me, please, ma'am.

1 A. Yes, this is -- the top picture here, the smaller
2 one, is -- this is Tony.

3 Q. That would be 117?

4 A. 117.

5 Q. Tony Melendez?

6 A. Tony Melendez.

7 And this is Gilbert Melendez.

8 Q. State's Exhibit 116 is a picture of Gilbert
9 Melendez; is that right?

10 A. Yes, sir.

11 Q. Do both of those fairly and accurately depict the
12 scene as it then and there existed back in those days?

13 A. Yes.

14 MR. LANE: We will offer 116 and 117, Judge.

15 MR. DeGUERIN: No objection.

16 THE COURT: 116, 117 are admitted.

17 (State's Exhibits Nos. 116, 117 received.)

18 MR. LANE: Judge, I would like permission to
19 publish 112, 116 and 117. I don't think they have all been
20 published before.

21 THE COURT: Go ahead.

22 BY MR. LANE:

23 Q. Well, Chris, what happened with regard to yours
24 and David's relationship after this party that first
25 evening?

1 A. The first evening, it was very, very late when the
2 party kind of broke up and I ended up sleeping on his couch.

3 Q. There at Juanita's house?

4 A. Juanita's house. And then the next morning, he
5 drove me to work. Then I -- that evening in particular, I
6 think I -- I remember that I got off early, like six o'clock
7 in the evenings instead of working late into the evenings.
8 He then picked me up from work and we went back to his house
9 where we ended up in bed together.

10 Q. Now, Chris, we are going to have to talk, as you
11 well know, about a lot of things this afternoon that
12 probably if you had your druthers, you wouldn't talk about;
13 isn't that true?

14 A. Yes, sir.

15 Q. Okay. You and I have been over it and you
16 understand the necessity of some of the things that we are
17 going to have to go into, don't you?

18 A. Yes, sir.

19 Q. Okay. At any time if you need a recess, from
20 emotional an standpoint, just please tell us and we'll take
21 a short recess. Okay?

22 A. Yes, sir.

23 Q. Did you and David Spence move in together shortly
24 after this first encounter?

25 A. Yes, sir.

1 Q. Tell the jury when that happened.

2 A. In August or September. It was just the day after
3 we had met. He -- that afternoon, he asked me to move in
4 with him and I said yes.

5 It was really funny because one of the first
6 things that he said to me was, "Well, if you are going to
7 live here, you have to pay rent." And I mean, I didn't have
8 a penny to my name and I thought that was real strange that
9 he would ask me that.

10 Q. Where was Juanita White living at that time?

11 A. Juanita White was living with her boyfriend.

12 Q. In the house that you have described in this
13 photograph, it was just you and David that was living there
14 at that time?

15 A. Yes, sir.

16 Q. Okay. And how long -- let me ask you this. Was
17 David Spence working at that time?

18 A. Yes, sir, he was. He didn't have set hours or
19 anything. He was working with a construction company.

20 Q. Okay. Over the course of the next six or eight
21 months, did y'all continue to live there at Juanita White's
22 house?

23 A. Yes, sir.

24 Q. And you continued to reside with David Spence?

25 A. Yes, sir, off and on.

1 Q. Let's move into the spring of 1982, now, and where
2 were you living in March of that year?

3 A. In March of '82, we were living in Juanita White's
4 house.

5 Q. At some point in time during that March, 1982,
6 were you looking for work?

7 A. Oh, yes, sir.

8 Q. Okay. Tell this jury what happened at that period
9 of time.

10 A. It was raining. It was in March and it was
11 raining real hard and I was out just walking from door to
12 door, looking for a job. I applied at a lot of places. It
13 started raining really, really hard and I ran into the
14 Rainbow Drive-In and recognized Deeb.

15 Q. Okay. Now, prior to that time, had you ever been
16 in the Rainbow Drive-In?

17 A. No, sir.

18 Q. Okay. As I understand it, you were just out
19 looking for a job and as a result of getting wet, you ran in
20 there?

21 A. Yes.

22 Q. Okay. And who is the first person that you saw
23 when you got of the Rainbow?

24 A. Deeb.

25 Q. Okay. Did you recognize Deeb at that time?

1 A. Yes, sir, I did.

2 Q. Did he recognize you, as best you could tell?

3 A. Oh, yeah.

4 Q. What did you tell Deeb that you were interested in
5 when you walked into the Rainbow that March afternoon?

6 A. I remember we talked about -- he would always --
7 when he would come into the Taco Torch where I worked, he
8 would always order the same thing. We talked a lot, just a
9 few minutes there, we were reminiscing on that, and I told
10 him that I was looking for a job and he hired me right there
11 on the spot.

12 Q. Okay. Now, how old were you at this time? Do you
13 recall?

14 A. 17.

15 Q. Okay. Was it established what hours you would be
16 working and specifically what hours you would be working?

17 A. At first, it started off working just a couple of
18 days a week or the shifts that they needed me. We were very
19 busy late morning and lunch rush, and it was very busy
20 between eight and 10:00 o'clock in the evening for the
21 evening rush, people picking up things on their way home, if
22 they forgot something at the grocery store, that type of
23 thing.

24 Q. Now, moving again probably to about May of that
25 year, did you meet a young man by the name of Jerrell Burks?

1 A. Yes, sir.

2 Q. Who was Jerrell Burks?

3 A. Jerrell Burks, when he first started coming into
4 the store, he would mow the lawn and clean up the parking
5 lot and stuff like that for the store. He ended up going to
6 work there. Very, very nice man. Very easy to talk to.

7 Q. Did they have a nickname for him?

8 A. Sparky.

9 Q. Sparky?

10 A. Sparky.

11 Q. Who did you understand owned the Rainbow?

12 A. Deeb and Kareem owned -- co-owned it together.

13 Q. Okay. And I think everybody has pronounced it
14 differently. Is it what I call Kareem?

15 A. Kareem.

16 Q. Kareem. It's the same individual that you
17 understood was a co-owner with Mr. Deeb?

18 A. Yes, sir.

19 Q. Okay. Did you know at this point in time how long
20 they had been in business there?

21 A. I didn't think it was very long because the
22 shelves were still empty. There wasn't a whole lot of
23 stock. It seems like they were just getting the business
24 off the ground, it was starting to get busier.

25 Q. Well, Chris, let me ask you this: Describe for

1 this jury, if you will, the type of relationship that you
2 developed with the Defendant in this case, Mr. Deeb.

3 A. We were friends, cut up a lot in the store. I ran
4 the register most of the time. I was entrusted with the key
5 to the store. I relieved both of them or one or the other
6 of them for either lunch or dinner.

7 I had no working problems with Deeb, as far as a
8 boss-employee type of relationship.

9 Q. Did David Spence work during this period of time?
10 Say, from March when you began working at the Rainbow
11 through the summer, did David Spence have a fulltime job?

12 A. No, sir. I recall that for maybe a week or two,
13 that he worked someplace really close, an aluminum company,
14 for maybe two weeks or so. He would never show up for work,
15 so he ended up getting fired. But he didn't have a very
16 stable job, no, sir.

17 Q. Were you the primary breadwinner for your family,
18 being you and David Spence, you were the one that worked?

19 A. Yes, sir.

20 Q. How much time during the week would David Spence
21 spend at the Rainbow?

22 A. At first, it wasn't very much at all. He would --
23 when I say not very much at all, for him, he would come in
24 whenever I was there, to check up on me and make sure that I
25 wasn't doing anything that he didn't want me to be doing.

1 Q. Now, stop right there, Chris, and tell us what you
2 mean, make sure you weren't doing anything that you weren't
3 supposed to be doing. What ---

4 A. He was very much insistent that I would screw
5 anybody that I met. That if I made eye contact with a man,
6 that it meant that I wanted to go to bed with him.

7 Q. Would you consider David Spence to be an insanely
8 jealous individual?

9 A. Oh, yes.

10 Q. Of you?

11 A. Yes.

12 Q. In your own words, Chris, describe to this jury
13 what kind of relationship you had with David Spence in
14 March, April and May of 1982.

15 A. Very rocky. He was a -- he -- by this time, he
16 had turned into what a lot of people referred to David as
17 chilly, which is kind of like a biker's nickname. He turned
18 into this scenario of someone who could not get enough sex,
19 could not beat me enough, could not abuse me enough,
20 physically and mentally, in any way he could. One minute,
21 he was crazy in love with me and I was just a God and the
22 next moment, it was you are a slut and a bitch.

23 Q. Is this the same person that you met back in
24 August or September of 1981?

25 A. As in body, yes, but as a person, no. Mentally,

1 it was totally different. It wasn't -- it was like two
2 completely different people.

3 Q. Describe for this jury his appearance in March,
4 April and May of 1982.

5 A. A lot like the picture that y'all have in front of
6 you. He wouldn't take a bath. He had let himself go. He
7 wouldn't blow-dry his hair. He wore a bluejean jacket that
8 had dried dog's blood on it that he would not allow me to
9 wash.

10 He got to the point where nothing mattered to him,
11 you know. He was chilly, he was the bad guy. And he could
12 do anything. He was very invincible. He felt like he was
13 God's gift to everything and everybody.

14 Q. Describe for this jury what his -- a daily routine
15 for David Spence would have been in, let's say, May of 1982.

16 A. The first thing that he would do in the morning
17 would, before he even got out of the bed, was to check the
18 room for spiders, make sure there wasn't a spider in the
19 room. He would get up and he would go out in the front yard
20 and pee. He did not believe in urinating in the toilet.

21 He would then come in and put on the same
22 bluejeans he probably had on for two weeks. The same belt.
23 Usually a clean shirt, bluejean jacket and a little bluejean
24 baseball-looking cap. A little -- I call it a painter's
25 cap.

1 He then opened a beer. That is how he started his
2 morning, with a beer.

3 Q. During the course of the day, how many beers would
4 David Spence drink?

5 A. It was nothing for him to put down two to three
6 cases a day.

7 Q. When you and I first talked about this, I even
8 counted out the number of cans you were talking about.

9 A. I bought it. I know.

10 Q. But you are saying two ---

11 A. Two to three cases of beer a day. By himself.
12 That was with nobody helping him. People come over, they
13 had to bring their own beer. He didn't pay for other
14 people's beer. Of course, he didn't pay for his own,
15 anyway.

16 Very heavy drinker, one right after another.

17 Q. When David would drink, did you ever know him to
18 take any kind of drugs?

19 A. Yes, sir. He smoked marijuana a little bit.
20 Mostly, he would inject himself in the arm with -- it is an
21 amphetamine that is made from nasal spray and they heat it
22 up on a spoon and they put it into a syringe, and then shoot
23 himself up. And it made you real high, but then you came
24 down real quick and real hard and put you in a very bad
25 mood.

1 Q. You say put you in a very bad mood. Chris, did
2 you take drugs back at that time?

3 A. No, sir. No, sir, I did not. I did not drink. I
4 did not do any drugs.

5 Q. But on any given day, you would see David Spence
6 consume massive amounts of alcohol and narcotics?

7 A. Alcohol. Beer is the only thing that he would
8 drink, is beer.

9 Q. What kind of beer would he drink?

10 A. Budweiser. It was like a symbol to him, the
11 Budweiser man, the macho.

12 Q. When he would get in these alcohol-induced,
13 drug-induced states, explain to this jury how he would treat
14 you physically.

15 A. I could sit here and talk about that one all day.

16 He was very abusive, especially physically, and it
17 was nothing for me to go to work or -- with huge black eyes
18 and split lips, broken teeth. Once he started drinking, if
19 he wasn't home by eight o'clock that night, I knew that when
20 he came through that door, he was going to beat the hell out
21 of me. And he would hold me down on the bed and he would
22 just haul off his fists and hit me and hit me and hit me and
23 hit me. And it was just like he was in this state of
24 voidness. If he came home before eight, usually he was in a
25 good mood.

1 Q. Did David Spence carry a knife with him back in
2 May and June of 1982?

3 A. Yes, sir, he did.

4 Q. What kind of knife do you recall him carrying?

5 A. It was a knife that folded up. It had a wood
6 handle, a great handle on it. When it was out, it was
7 longer than from the base of his palm of his hand to the top
8 of his finger. It was a little bit longer than that. When
9 he folded it up, he had a case that he carried on his belt
10 and he wore it all the time.

11 Q. Chris, I want to ask you some things now dealing
12 with the sexual activity between you and David Spence, okay?

13 A. Yes, sir.

14 Q. When you and David -- or, let me rephrase that.

15 When David Spence would get his mind set to have
16 sex with you, describe for this jury the process that he
17 would go through, especially when he was drunk or high on
18 drugs. And I want you to be as graphic as you can, as far
19 as how David Spence physically attacked you.

20 A. He was a very sexual active man. It was nothing
21 for us to have sex three or four times a day. Nine times of
22 out ten, he would demand that I was on top. There was never
23 foreplay. He never held my hand or kissed me like most
24 people would do before you made love to someone you cared
25 about. He would -- he could not ejaculate unless he was

1 hitting me, physically hard, or biting me.

2 Q. Stop right there.

3 Was it one of David Spence's practices during the
4 times that he was committing these atrocities on you to bite
5 you?

6 A. Yes, sir.

7 Q. Where would he bite you, Chris?

8 A. On the shoulder where the bone is right here
9 (indicating), right on the real -- right where your breast
10 starts and it is real fatty, and right on the nipple.

11 Q. David Spence ever bite you so hard on the nipple
12 that you thought that you had been cut?

13 A. Oh, yeah. I didn't realize how much blood could
14 come out of your boobie.

15 Q. Tell this jury what happened.

16 A. He -- he -- his -- he likes to inflict pain on
17 people, but doesn't like it back in return. You don't hit
18 him or talk back to him. He would -- he would just reach up
19 -- because he would have me on top, he would just reach up
20 and he'd just grab ahold and right when it was just about
21 time for him to ejaculate and wouldn't let go until it was
22 over. He would bite very hard. And I had bruises and
23 teethmarks that have lasted months, you know, and just the
24 sore muscles and -- where you didn't think it would ever go
25 away.

1 Q. David ever tie you up while he was committing
2 these atrocities on you?

3 A. One time he tied me up with my bra, with my hands
4 above my head.

5 Q. I'm sorry, he tied you up with what?

6 A. My bra. And had my hands above my head and he was
7 on top of me and he just wouldn't stop and he just kept
8 hitting me and hitting me and hitting me and hitting me. It
9 was like he couldn't stop.

10 Q. Did he ever call you by a different name?

11 A. No, sir. Well, it was either Christie or, hey,
12 bitch, or my 17-year-old slut, those kinds of things. But
13 he never called me another name, no.

14 Q. Did he ever confuse you with ---

15 A. Judy, his ex-wife. Once he confused me with his
16 ex-wife.

17 Q. Who was his ex-wife?

18 A. I think her name was Judy. She had left a long
19 time before he had gone to prison the first time. They had
20 a couple of kids.

21 Q. Was it at some point in time that he was beating
22 you?

23 A. When he was beating me and he was drunk, yes.

24 As far as sober, he didn't confuse me with
25 anybody.

1 Q. When he was drunk and drugged induced, is that
2 when he became chilly?

3 A. Oh, yes, sir. When he was sober, he was actually
4 a pretty decent guy.

5 Q. How often was that in March and April and May and
6 June of 1982?

7 A. Maybe two days.

8 Q. In that entire period of time?

9 A. In that entire period of time.

10 Q. Chris, did David Spence ever use any inanimate
11 objects on you while he was performing these atrocities on
12 you?

13 A. Yes, sir.

14 Q. Describe for this jury what he would use.

15 A. He had what he called a love stick and whenever I
16 was bad or when he felt that he couldn't get off, he would
17 use this stick. It was about this long and it was -- it
18 wasn't really big. It was wrapped in plastic tape. And he
19 would use it on me sexually.

20 Q. Okay. When you say that he would use it on you
21 sexually, tell this jury what he would do with it.

22 A. He would just ram it up in my vagina until it
23 wouldn't go any further and he would take -- just ram it in
24 there and tell me I deserved it. That I was nothing but a
25 little slut, and how I would never do -- I mean, it was --

1 he would just keep ramming it in there like it was -- I
2 mean, he never -- he didn't lubricate it or anything else.
3 It was just rammed in there.

4 Q. Why? When would he use this stick on you?

5 A. When he was drunk. Usually when he was so drunk
6 that he couldn't even get it up.

7 Q. And when you say drunk, are you talking about
8 drunk both by alcohol and drugs?

9 A. Yes.

10 Q. Did this continue up until and during the summer
11 months of 1982?

12 A. His abuse and -- yes, and....

13 Q. Let me ask you this, Chris: When you were working
14 there at the Rainbow, did you ever have discussions with
15 Muneer Deeb about the way that David Spence treated you
16 physically?

17 A. Yes, sir, it was kind of a hard thing to not
18 discuss. One night in particular, David had taken -- I was
19 talking to my father on the phone and when I hung up, I
20 said, "I love you, Daddy," and he got very upset and he
21 grabbed the phone out of my hand and he just -- went right
22 up against the side of my jaw and broke one of my back
23 teeth. And I had this huge, almost like a hematoma on the
24 side of my face. It was very, very big and it was black.

25 And there were several times when Deeb and --

1 Sparky, all of them, would tell me, "Chris, leave him, leave
2 him, you know, just leave, it's not worth it." They always
3 cared. They would always be there when I needed someone to
4 cry to. They would understand when I couldn't wait on the
5 customers. And I would just sit there and cry and cry and
6 cry.

7 Q. Did you tell Sparky and the Defendant in this case
8 how David Spence physically abused you; is that correct?

9 A. Oh, yes.

10 Q. During the whole time?

11 A. Oh, yes, sir. It had started -- I mean, David's
12 abuse on me had started before I even went to work at the
13 Rainbow Drive-In.

14 Q. Let me ask you, Chris, and we won't have to go
15 into any details, but did you grow up in an abusive family?

16 A. Yes, sir, I did.

17 Q. Did you have -- just briefly tell the jury.

18 A. My mother's second husband, he was in the Army,
19 and he would physically abuse her quite a bit. And David
20 was the first man that I ever dated. He was the first man
21 that I ever slept with. When he would beat me, I would
22 always think it was my fault, that I had done something
23 wrong. It was not something that was uncommon. I thought
24 that in my morbid and twisted sense of thought, it was
25 something that was normal, that boyfriends and husbands did

1 this.

2 Q. Chris, let me ask you this -- let's talk about --
3 let's just start in mid June or late June of 1982, okay?

4 Do you remember where you were living at that
5 time? Did you move from Juanita White's house?

6 A. Yes, sir, I moved out -- when I personally moved
7 out of Juanita White's house and away from David and moved
8 into a small apartment behind the Rainbow Drive-In. If I am
9 not mistaken, Deeb had set it up for me to get the place so
10 that I could get away from him.

11 Q. Deeb had set it up so that you could get away from
12 David?

13 A. Yes.

14 Q. At some point in time after you moved into that
15 apartment, did David show up?

16 A. Oh, yes. It was a constant battle of I will
17 change, I love you, I can't live without you, I will never
18 hit you again. And then I just let him right back in.

19 Q. Well, Chris ---

20 A. Right in.

21 Q. Tell me this, this abuse was ongoing and
22 continuing through March, April, May, June of 1982, and yet
23 that is the same time that you were working at the Rainbow
24 Drive-In; is that correct?

25 A. Yes, sir.

1 Q. And you were telling Muneer Deeb about the
2 physical abuse that you were suffering at the hands of David
3 Spence; is that correct?

4 A. Yes, sir.

5 Q. And how often -- how many times a week would David
6 Spence be in the Rainbow Drive-In?

7 A. Everyday.

8 Q. Everyday?

9 A. Everyday.

10 Q. How long did he stay there?

11 A. In late June or early July, he was there probably
12 three-quarters of all the time that I worked there. He
13 didn't have a job. He would stay there and play video games
14 and watch me and make sure that I wasn't doing anything.

15 Q. Chris, let me direct your attention to sometime in
16 mid June of 1982 and ask you: Were you ever present when
17 there was a conversation between David Spence and the
18 Defendant concerning an automobile?

19 A. On the 4th of July, I was present when they spoke
20 about an automobile.

21 Q. Okay. How do you recall -- where were you on the
22 4th of July?

23 A. I was at the store. We were open that day.

24 Q. And do you remember a conversation between the
25 Defendant and David Spence on that date concerning an

1 automobile?

2 A. Yes, sir.

3 Q. Tell this jury what you remember about that
4 discussion.

5 A. Well, at the time, Deeb had a small yellow
6 Triumph, a kind of sports car, and David and he were talking
7 about wrecking the sports car to collect the insurance money
8 and ---

9 Q. Hold on, Chris.

10 Let me show you what's been marked and is before
11 this jury as State's Exhibit 113. Can you identify that
12 photograph?

13 A. Yes, sir, that is the car in question.

14 Q. Okay. When you say that is the car in question,
15 is this the Defendant's car that the discussion about having
16 it wrecked was concerned?

17 A. Yes, sir.

18 Q. Okay. Now, I want you to go through this and go
19 through it slowly so everybody can pick it up and, more
20 importantly, so that everybody can hear it.

21 Who brought the discussion up about this car?

22 A. Deeb did.

23 Q. And what was -- what did Muneer Deeb ask of David
24 Spence with reference to this car?

25 A. He asked David to wreck the car so that he could

1 collect the insurance money. It was my understanding that
2 the insurance money was going to help get the store out of
3 debt.

4 Q. What did you understand to be the financial
5 condition of that store on July the 4th of 1982?

6 A. It was very, very fastly going downhill. People
7 would call. The gas company, they would refuse to deliver
8 gas anymore. They weren't delivering the Cokes and stuff
9 like this on time and it was COD basis. They -- it didn't
10 seem to me that the store was doing very good at all.

11 Q. And so there was a discussion between the
12 Defendant and David Spence in your presence concerning the
13 destruction of this TR7 to collect some insurance proceeds?

14 A. Yes, sir.

15 Q. And pursuant to that conversation, what y'all do,
16 if anything?

17 A. Well, they were discussing other things at that
18 time. But later on that evening, we all went -- we were
19 shooting off firecrackers in the front of the store and we
20 went -- we all got in our prospective cars and were driving
21 -- and they -- at one point, we got out and stopped and were
22 talking about how they were going to wreck the house.

23 Q. How was it determined that the car was going to be
24 wrecked?

25 A. The car was going to be wrapped around a telephone

1 pole or a tree. The only problem was if -- the car was a
2 clutch, and they couldn't figure out how to get it going.
3 I'm sorry. At the time it was very funny that they couldn't
4 figure out how to wreck the car.

5 Q. This was discussions when you were discussing out
6 on the road or wherever it presumably was, was Mr. Deeb
7 there?

8 A. Yes, sir.

9 Q. And David Spence was there?

10 A. Yes, sir.

11 Q. And you were there?

12 A. And yes, sir.

13 Q. Well, was the car ever destroyed?

14 A. Not to my knowledge. I don't remember whether it
15 was or not.

16 Q. That evening?

17 A. No, no, it was not.

18 Q. Chris, did you know a girl by the name of Gail
19 Kelley?

20 A. Yes, sir, I did.

21 Q. How is it that you knew Gail Kelley?

22 A. She came into the store quite a bit. She lived at
23 the Methodist Home and would come in and get groceries and
24 borrow money from Deeb, that type of thing. They were -- it
25 seemed like they were friends.

1 Q. Did you know or do you have any personal knowledge
2 of the Defendant renting an apartment for Gail Kelley?

3 A. Oh, yes, sir. The first part of July -- last part
4 of June, first part of July, Deeb -- she ran away from the
5 home again and he got her an apartment over at Northwood
6 Apartments, number 144.

7 Q. Now, why is it that you remember that number so
8 well?

9 A. Because I lived there after she moved out.

10 Q. Okay. So you were aware of the apartment that
11 Deeb had rented for Gail?

12 A. Yes, sir.

13 Q. Do you know how long she lived there?

14 A. A couple of days, a week, it wasn't long. It was
15 not a very long time span from the time she moved in until
16 the time she moved out.

17 Q. When did you move in there? Do you recall?

18 A. Early -- early July, before -- it seems to me that
19 it was before the 4th. The very earliest would be late
20 June. It was not a very -- the apartment still had two or
21 three weeks of rent already paid on it when we moved in and
22 the agreement was, was that Deeb was going to take the money
23 out of my paycheck to finish paying off what the difference
24 in the rent.

25 Q. Was going to be.

1 Do you recall ever being -- are you okay?

2 A. Yeah.

3 Q. --- at the Rainbow and in the presence of the
4 Defendant and David Spence when there was ever a discussion
5 about killing someone?

6 A. Yes, sir.

7 Q. Describe for this jury -- first of all, do you
8 recall when it was approximately?

9 A. Well, sir, I remember the exact day. It was July
10 4th.

11 Q. Same day that there had been this discussion about
12 collecting insurance on wrecking a car?

13 A. Yes, sir, it was in the same conversation.

14 Q. Okay. Tell this jury about that conversation.

15 A. Well, the conversation was just started when Deeb
16 had asked David to wreck the yellow car for him. And David
17 had said, yeah, sure, and then I said something to the
18 effect, "Y'all shouldn't joke about that. You can get into
19 a lot of trouble." And then it was the very next sentence
20 out of Deeb's mouth was, "Well, would you kill somebody for
21 \$5,000 for me?"

22 And David goes, "Yeah, sure. Who?"

23 Q. And -- stop right there, Chris. The date is July
24 4th of 1982?

25 A. Yes, sir.

1 Q. You have already testified that the initial
2 conversation that you overheard or at least were a party to
3 between the Defendant and David Spence dealt with the
4 Defendant asking David Spence to wreck his car to collect
5 insurance.

6 A. Yes, sir.

7 Q. And then in the same conversation, there was a
8 discussion where the Defendant asked David Spence if he
9 would kill somebody for \$5,000?

10 A. Yes, sir.

11 Q. Was it after that point in time that evening that
12 y'all went out and tried to figure out a way to wreck the
13 car?

14 A. Yes, sir.

15 Q. Chris, let me direct your attention to July the
16 13th of 1982. Let me ask you: Do you remember that day?

17 A. Yes, sir.

18 Q. What hours did you work on July the 13th of 1982?

19 A. I closed the store. Closed the store at eleven
20 o'clock. I don't exactly remember if I went in in the
21 morning and went home at two and then came back at 6:00 and
22 worked until closing, but I closed the store that day.

23 Q. When you would close the store, what time would
24 that approximately be?

25 A. That was at eleven o'clock. We didn't care what

1 was going on, we closed at eleven and went home.

2 Q. So you closed the store at 11:00 p.m. on July the
3 13th of 1982?

4 A. Yes, sir.

5 Q. Had you seen David Spence that evening?

6 A. No, sir, I hadn't.

7 Q. When was the last time that you had seen David
8 Spence?

9 A. Earlier in the afternoon or in the morning.

10 Q. Okay. Had you seen Muneer Deeb that evening?

11 A. Yes. He was kind enough to give me a ride home.

12 Q. Okay. Approximately what time did the Defendant
13 take you home on the night of July 13th of 1982?

14 A. I probably walked in my front door right at 11:15
15 or so.

16 Q. Okay. Now, what front door are we talking about?
17 Where were you living at this time?

18 A. At Northwood Apartments, number 144.

19 Q. The one where Gail had lived earlier?

20 A. Yes, sir.

21 Q. Do you recall what time it was, if indeed he did,
22 that David came home that night?

23 A. It was after I had already gone to bed. I had
24 already undressed and was in bed. Midnight, maybe. Maybe
25 one o'clock.

1 Q. Okay. Now, when you had seen David Spence earlier
2 in the day, do you even recall how he was dressed?

3 A. Oh, yes, sir. I had given him his birthday
4 present early. I had gave him this real pretty pullover
5 T-shirt and it had buttons and a zipper right here. And he
6 was wearing bluejeans and the knife and his boots. Dressed
7 like any normal day.

8 Q. Did he have on his vest that day or do you recall?

9 A. I don't recall whether he was wearing his vest
10 that day. He was wearing a cap. He didn't go anywhere
11 without his cap, and that included the bedroom.

12 Q. He did have his knife on that day?

13 A. Oh, yeah, he had his knife on everyday.

14 Q. When you next saw David Spence on July the 13th,
15 or the early morning hours of July the 14th, it was at your
16 apartment on Northwood?

17 A. Yes, sir.

18 Q. Describe, if you will, for this jury how he
19 appeared to you at that time?

20 A. When he -- when he came into the bedroom, he
21 turned on the light, on the light and he said something to
22 the extent of, "Hey, bitch, get out of bed."

23 And I remember I sat up and he was taking off his
24 boots, but he was not -- I mean, not his boots, his socks,
25 but he was not wearing his shoes, nor was he wearing his

1 shirt or his belt. He -- he climbed into bed and screwed
2 me.

3 Q. Was there anybody with him when he came in?

4 A. No, sir, not that I know of. I never went out to
5 the living room.

6 Q. When you first saw him, though, he had no boots
7 on?

8 A. No boots.

9 Q. No shirt?

10 A. (Nods negatively.)

11 Q. No belt and no knife?

12 A. No, sir.

13 Q. Chris, did you ever see that belt and that knife
14 again?

15 A. No, sir.

16 Q. The last time that you had seen that belt and that
17 knife was in the afternoon of July the 13th of 1982?

18 A. Yes, sir.

19 Q. I believe your testimony was that David Spence
20 wore that knife everyday?

21 A. Yes, sir.

22 Q. And then after the early morning hours of July
23 13th of 1982, did you ever see that knife again?

24 A. No, sir.

25 Q. Did anybody come over to the apartment that early

1 morning hours?

2 A. Yeah. Someone knocked on the front door, David
3 got up and answered it. I didn't get out of bed.

4 Q. Chris, let me ask you. Describe for this jury his
5 state of mind, and that is David Spence's state of mind.
6 Was he intoxicated? How was he when he came home?

7 A. He was very drunk.

8 Q. When you say drunk, in your opinion, was he also
9 high on narcotics?

10 A. It was a given. He didn't do one without the
11 other at this point. He did drugs and he drank heavily
12 everyday. It was not something that he alternated or did
13 not do.

14 Q. When he came in shortly after midnight on July the
15 14th of 1982, he was abusive to you at that time?

16 A. Yes, sir.

17 Q. Now, did somebody come over to the apartment later
18 that morning?

19 A. Yes. Yes -- well, in the middle of the night, the
20 doorbell -- or someone knocked on the door and he got out of
21 bed. I didn't get up. And he went out into the living room
22 and I heard him talking. And then -- I thought it was -- I
23 know that Clifford Oliver was there, but I don't know if
24 there was anybody else with him or whether they stayed.

25 Q. Were there other people there that you just don't

1 remember who they were?

2 A. Well, I didn't know them. I didn't know them. I
3 mean, there were a lot of voices, a lot of people talking.
4 It was more than Clifford Oliver and David in the room. But
5 I didn't know who they were and I did not get dressed and go
6 out in the living room.

7 Q. You stayed back in the bedroom?

8 A. Yes, sir, I went back to bed.

9 Q. Okay. Did you ever see David Spence the rest of
10 that evening? Now, we are talking about the early morning
11 hours.

12 A. No, sir. The next time I saw him was when he came
13 in to get me to wake me up, to get dressed to go to work
14 again.

15 Q. About what time was that?

16 A. I had to be at the store at 7:00 a.m. It was
17 probably 6:30.

18 Q. Okay. So, you next saw David Spence at about 6:30
19 a.m. on July the 14th; is that right?

20 A. Yes, sir.

21 Q. When he came in to wake you up?

22 A. Yes, sir.

23 Q. Now, what was his emotional and mental state at
24 that time, as you recall?

25 A. He proceeded to screw me again and he was very

1 drunk. Very drunk. God, he stunk to high heavens and I was
2 so mad. I was just sitting there gritting my teeth because
3 it was like nothing mattered. Just didn't matter anymore.

4 Q. Did you go to work that morning?

5 A. Yes, sir.

6 Q. How did you get to work?

7 A. David drove me in the Malibu.

8 Q. Okay. Was there anybody else that went with y'all
9 down to the store that morning?

10 A. Well, Clifford Oliver and two or three of his
11 friends with in a pickup truck and they followed us to the
12 store.

13 Q. Okay. What was the purpose in everybody going to
14 the store other than you to open up the store to go to work?

15 A. So that I could buy everybody beer. He charged a
16 couple of six-packs -- I mean a couple of cases of beer,
17 some cigarettes, Cokes, that kind of thing, on the back of
18 my time card, and then left with them.

19 Q. When you say he, you are talking about David
20 Spence?

21 A. David, yes.

22 Q. Was it common for you to, if you were going to get
23 beer for David, that you would put it on the back of your
24 time card?

25 A. Yes, sir.

1 Q. And then presumably, at the end of the week -- or
2 how often were you paid?

3 A. You know, I honestly cannot remember.

4 Q. At the end of the pay period, they would settle up
5 with what you had charged?

6 A. Yeah. Back then, I was pretty naive. I never
7 checked what they paid me against what I worked. I don't
8 recall a time ever not getting a paycheck.

9 Q. Chris, let me ask you this: On that morning of
10 July the 14th, how long was David Spence at the store that
11 morning?

12 A. Ten minutes, maybe give or take a little bit, but
13 he was not there at the store very long.

14 Q. Long enough to get the beer and the cigarettes?

15 A. Yes, sir.

16 Q. Did you see the Defendant anytime on July the 14th
17 of 1982?

18 A. Yes, sir. He came in -- now, this I'm real shady
19 on as far as exact times, but it was late morning or early
20 afternoon. He came in to help me out -- to the best of my
21 recollection, it would have been somewhere around eleven
22 because we always had two people in the store between
23 eleven, you know, during the lunch rush.

24 Q. Okay. If you had gone in at 7:00 o'clock, as you
25 testified that you did on July the 14th, what time would you

1 have gotten off on that day?

2 A. Two o'clock.

3 Q. So, presumably, you saw the Defendant prior to two
4 o'clock, in any event; is that correct?

5 A. Oh, yes. Yes.

6 Q. To the best of your recollection, it was around
7 eleven o'clock?

8 A. Yeah, but that is just thinking back. This has
9 been ten years.

10 It was late morning, early afternoon, but to the
11 best of my recollection, it was probably around eleven
12 o'clock because you need help during the busy time of the
13 day.

14 Q. Okay. Did you have any conversation with him at
15 that time that struck you as unusual?

16 A. Yes, sir. At that time when he came into the
17 store, he parked right up in front of the store and came in
18 -- he said point-blank, he goes, "They killed that
19 son-of-a-bitch and I'm glad he got what he deserved."

20 And I go, "Who? Who are you talking about?"

21 And he kept -- he was pacing real fast in the
22 front of the store and just pacing, and he was helping stock
23 the shelves and he was going, "They finally got that
24 son-of-a-bitch."

25 And then he said -- and I asked him who and he

1 goes, "Gail's boyfriend."

2 And the rest of the day, I listened to the
3 newscast on the radio and I listened -- I read the paper and
4 I couldn't figure out what he was talking about and there
5 were kids coming in from the home and nobody ever said
6 anything and I thought maybe he was ---

7 Q. Okay.

8 A. Strange.

9 Q. Okay. Now, Chris, let's get the time frame and
10 make sure it's straight for this jury. We are talking about
11 at approximately 11:00 o'clock a.m. on July the 14th of
12 1982; is that correct?

13 A. Yes, sir.

14 Q. Your testimony has been that the Defendant, on or
15 about that time, made the statement to you that "I'm glad
16 they killed that son-of-a-bitch"?

17 A. Uh-huh.

18 MR. DeGUERIN: Leading and suggestive.

19 BY MR. LANE:

20 Q. Exactly what was it that was said ---

21 THE COURT: Sustained.

22 BY MR. LANE:

23 Q. Exactly what was it that the Defendant, Muneer
24 Deeb, said to you on July the 14th of 1982 at approximately
25 11:00 o'clock a.m.?

1 MR. DeGUERIN: That is leading and suggestive,
2 Judge.

3 THE COURT: Overruled.

4 THE WITNESS: Do I answer that?

5 THE COURT: You may answer.

6 BY MR. LANE:

7 Q. Yeah.

8 A. He said -- when he came into the store, he said,
9 point-blank, "The son-of-a-bitch is dead and I'm glad and he
10 got what he deserved."

11 Now, those -- they may not be the exact wording as
12 far as his English language, but that was what he said.

13 And then he was stocking the shelves or doing
14 something and I kept asking him who and he said, "Gail's
15 boyfriend."

16 Q. Okay. How did he appear to you at that time?

17 A. Elated.

18 Q. I'm sorry?

19 A. Elated. Just bubbling over with joy. Very
20 excited. Very, very antsy.

21 THE COURT: Let's take about a ten-minute recess.
22 Please remember the instructions, ladies and gentlemen.

23 (Recess from 3:00 p.m. to 3:27 p.m.)

24 THE COURT: Bring the jury in.

25 (JURY PRESENT)

1 THE COURT: Okay. Go ahead, Mr. Lane.

2 BY MR. LANE:

3 Q. Chris, I think just before we took the break
4 -- well, actually, I don't even remember where we were
5 before we took the break. Let me back up and ask you some
6 things.

7 I think I had just begun to ask you -- and let me
8 show you what is marked and before this jury as State's
9 Exhibit No. 106. This face sheet here is marked State's
10 Exhibit 106, which is an affidavit. Let me ask you if you
11 can look at this composite exhibit and specifically the page
12 I'm pointing to right now and -- do you recall filling this
13 particular document out?

14 A. I remember signing a document, yes, sir.

15 Q. What is it?

16 A. It is life insurance policy.

17 Q. Okay. Did you ever see the actual life insurance
18 policy?

19 A. No, sir.

20 Q. Okay. But the application that is contained in
21 the middle of this exhibit is something that you at least
22 remember signing; is that correct?

23 A. Yes, sir.

24 Q. Do you remember when it was that you filled out
25 this life insurance -- or signed this life insurance policy

1 application?

2 A. In June of '82.

3 Q. Okay. How did that all come about? Do you
4 recall?

5 A. I recall that morning before I left work, David
6 said that he had a meeting at the store. The time, I am not
7 really sure, but at 10:00 o'clock or whatever the time was.

8 Q. Okay. Now, stop right there.

9 David had a meeting at the store?

10 A. Yes, sir.

11 Q. Okay. Did he say who that meeting was with?

12 A. No, sir.

13 MR. DeGUERIN: Wait a minute, wait a minute. I'm
14 sorry. They slipped that in. That is hearsay. I object to
15 that and we objected to that before.

16 THE COURT: Sustained.

17 MR. DeGUERIN: We move to strike that testimony.

18 THE COURT: Granted.

19 MR. DeGUERIN: Move to have the jury instructed to
20 disregard it.

21 MR. LANE: Which part?

22 MR. DeGUERIN: What Spence told her.

23 THE COURT: What Mr. Spence said.

24 MR. DeGUERIN: And I object to -- and I would ask
25 that the witness be instructed about it, also.

1 THE COURT: The jury is instructed not to consider
2 the remarks related to -- by the witness to Mr. Spence.

3 And don't relate any talking to you, now,
4 Ms. Sterling. Don't relate words said to you by Mr. Spence.

5 MR. DeGUERIN: Further, we move for mistrial, Your
6 Honor.

7 THE COURT: Denied.

8 MR. LANE: Judge, so that I can understand the
9 Court's ruling, this was in reference to a matter we had
10 taken up outside the presence of the jury and the questions
11 were going to be with regard to any statements made by
12 Mr. Spence as far as this insurance policy was concerned.
13 The question I asked is did she remember going to the store
14 one morning and she offered the fact that David said that he
15 had ---

16 MR. DeGUERIN: Well, wait a minute. I object ---

17 MR. LANE: I want to ---

18 MR. DeGUERIN: Rank hearsay, Judge, whether it's
19 Mr. Lane's stating it or the witness stating it.

20 THE COURT: My ruling was that what you
21 characterized in the 404(b) notice was permissible. That is
22 not what was said.

23 MR. LANE: The question did not deal with the
24 issue of insurance policy under 404(b) stuff, is what -- not
25 at this point. I understand the Court's ruling under 404(b)

1 motion. We are just at home, going to the store at this
2 point in time.

3 THE COURT: Okay.

4 MR. LANE: Did the Court understand what I'm
5 saying?

6 THE COURT: I'm still sustaining the objection to
7 the hearsay.

8 MR. LANE: I wanted to make sure that was separate
9 and apart from what we discussed under 404(b).

10 THE COURT: It is.

11 MR. LANE: Okay.

12 BY MR. LANE:

13 Q. Christ, all that simply means -- it doesn't mean
14 anything to you other than you can't relate anything that
15 David said to you specifically, okay?

16 A. But how can that be hearsay?

17 Q. Well, the Judge has made his ruling. Let me tell
18 you how we are going to do this. We are going to ask you,
19 okay, do you recall going to the store sometime in June and
20 signing an insurance affidavit -- application?

21 A. Yes, sir.

22 Q. The one that I showed you that is made and that is
23 before this jury as an exhibit marked State's Exhibit 106.

24 A. Yes, sir.

25 Q. Okay. Who was at the store at the time that you

1 signed this application?

2 A. Deeb, David, the insurance man, Gail and I.

3 Q. And when you signed this application, which is
4 part of the composite exhibit of State's Exhibit 106, did
5 you provide information to be supplied and put down on this
6 particular application?

7 A. Yes, sir.

8 Q. What information did you specifically supply?

9 A. My date of birth and my place of birth.

10 Q. Okay. Any other information that you personally
11 supplied?

12 A. Not that I can recall, sir.

13 Q. Okay. Now, describe for this jury who -- who was
14 at the store? You said the Defendant, David Spence,
15 yourself and Gail.

16 A. Yes.

17 Q. Gail Kelley?

18 A. Gail Kelley. And the insurance agent.

19 Q. Do you remember his name?

20 A. No, sir, I don't.

21 Q. Okay. Where were y'all physically located at the
22 time that y'all first -- did you go to work that morning?

23 A. Yes, sir.

24 Q. Did you open the store that morning?

25 A. Yes, sir.

1 Q. Okay. Where were you located when the insurance
2 salesman came in?

3 A. I was behind the register.

4 Q. Okay. And where was Gail, if you recall?

5 A. She was sitting right next to me, a little bit
6 back on the ice machine or a Coke machine or something.

7 Q. Back behind the counter?

8 A. Behind the counter area.

9 Q. Now, where was the Defendant, Mr. Deeb?

10 A. He, David and the insurance agent were talking off
11 a ways from us.

12 Q. Okay. Were they at a different part of the store?

13 A. A different part of the store.

14 Q. Okay. Did the -- did David and the Defendant and
15 the insurance agent ever come over to the counter and stand
16 there and go through and ask you specifically every question
17 that was asked on this application?

18 A. No, sir.

19 MR. DeGUERIN: Leading and suggestive, Judge.
20 Might as well ask what she did or what he did instead of
21 suggesting the answer.

22 MR. LANE: I'm not suggesting any answer, Judge.
23 I'm asking her the sequence of events.

24 MR. DeGUERIN: May I have a ruling?

25 THE COURT: Overruled.

1 BY MR. LANE:

2 Q. Did anyone ever come over, and specifically the
3 insurance salesman, and ask you specific information that
4 you supplied on this application?

5 A. No, sir, not at any time.

6 Q. How did that happen? Explain to the jury how that
7 happened.

8 A. They were away from us. They were not close to us
9 where we could hear the conversation. We -- I had no idea
10 what it was about until I was asked to come over,
11 personally, me, come over and sign the policy.

12 Q. Who asked you to come over and sign?

13 A. David did.

14 Q. Okay. And did you leave the counter area and move
15 to the location in the store where they were located?

16 A. Yes, sir.

17 Q. And what did you do at that time with reference to
18 this application?

19 A. I was a fool and signed it.

20 MR. DeGUERIN: Now, Judge, I object to that
21 comment. The question was what did she do, not whether she
22 is a fool. And that is voluntary, that is not responsive to
23 the question, it is prejudicial, and we object to it.

24 THE COURT: Sustained.

25 BY MR. LANE:

1 Q. Chris, of course, this is ten years ago and how
2 old were you?

3 A. 17.

4 Q. Okay. Did you sign this application without
5 reading it?

6 A. Yes, sir.

7 Q. Did you ever receive an insurance policy?

8 A. No, sir.

9 Q. Did you ever make a premium payment yourself?

10 A. No, sir.

11 Q. Describe for the jury, if you will, the
12 relationship that you personally observed between David
13 Spence and the Defendant, Muneer Deeb. Would you categorize
14 or explain, if you will, your impression as to the type of
15 relationship they had in June of 1982?

16 A. They had a friendship, but it was -- I would
17 consider it a love-hate relationship. When they were
18 together in the store, they spoke very friendly to each
19 other and they were very cordial and they joked and talked.
20 Away from the store, Deeb would talk bad about David and
21 David would talk bad about Deeb.

22 Q. Describe for the jury, if you know of your own
23 personal knowledge --

24 MR. DeGUERIN: Excuse me. I'm sorry, but I object
25 to the hearsay of someone other than Muneer Deeb. I realize

1 that she can testify about whatever Mr. Deeb said. But I
2 object to her testifying about what somebody else said and
3 it is all rolled into one and I didn't have a chance to
4 object contemporaneously. I make my objection now. It is
5 hearsay.

6 THE COURT: Overruled.

7 MR. DeGUERIN: What was said by somebody else
8 about Mr. Deeb out of his presence.

9 THE COURT: Overruled.

10 BY MR. LANE:

11 Q. Did you know a young man by the name of Kenneth
12 Franks?

13 A. Yes, sir.

14 Q. How did you know Kenneth Franks?

15 A. He would come by the store, and him and Gail
16 Kelley were friends.

17 Q. Okay. Let me show you what is before this jury as
18 State's Exhibit 104, and ask you if you can identify the
19 male in that picture.

20 A. That is Kenneth Franks.

21 Q. Let me show you what is before this jury at
22 State's Exhibit 100 and ask you if you can identify the
23 individuals in that photograph.

24 A. One of them is Gail and one of them is Jill. If I
25 am not mistaken, the one on the right is Jill and this one,

1 the one on the left is Gail.

2 Q. Jill Montgomery and Gail Kelley?

3 A. Yes, sir.

4 Q. Have you ever seen this picture before today?

5 A. No, sir.

6 Q. Have you ever heard Muneer Deeb make any comments
7 with reference to Kenneth Franks?

8 A. Yes, sir.

9 Q. Specifically on or about July the 1st of 1982?

10 A. Yes, sir.

11 Q. What was that in reference to? Do you recall?

12 A. To -- on two different occasions, both of them
13 stick out in my mind. On one occasion was when Gail was
14 living in the apartment on Northwood, number 144, Gail had
15 had Kenneth Franks over to her house and Deeb, I guess,
16 had ---

17 MR. DeGUERIN: Excuse me. I object. The question
18 was did she hear Mr. Deeb say something. And this is not
19 responsive. It is introducing hearsay. I don't know what
20 all the source is of her information. But the question was
21 -- it's not responsive. The question was what did you hear
22 Muneer Deeb say.

23 THE COURT: Sustained.

24 BY MR. LANE:

25 Q. What did you Muneer Deeb say with reference to

1 Gail in the apartment on Northwood?

2 A. He was irate on one afternoon and ---

3 Q. What ---

4 A. --- was very abusive in language towards Kenneth
5 Franks in my presence. He was saying -- I don't know what
6 I'm allowed to say.

7 Q. You can say whatever you heard the Defendant tell
8 you on that occasion.

9 A. One of the remarks was that he was a low-life
10 son-of-a-bitch and he didn't deserve to live. On one
11 occasion, he said that he didn't deserve Gail.

12 Q. Was that -- this occasion that you are talking
13 about when he was irate, did Mr. Deeb tell you that was as a
14 result of any encounter he had with ---

15 MR. DeGUERIN: That is leading and suggestive.

16 THE COURT: Overruled.

17 BY MR. LANE:

18 Q. Did the Defendant tell you that it was as a result
19 of an encounter that he had had with Gail and Kenneth
20 Franks?

21 A. Yes.

22 MR. DeGUERIN: Again, leading and suggestive. It
23 suggests the answer.

24 THE COURT: Overruled.

25 BY MR. LANE:

1 Q. I believe your answer was yes?

2 A. Yes, sir.

3 Q. What did the Defendant tell you with regard to
4 this subject?

5 A. He had walked in on -- into Gail's apartment at
6 north -- Northwood and Kenneth Franks was there.

7 Q. And the Defendant told you back at the Rainbow
8 store exactly what, after he had found Kenneth Franks in
9 Gail's apartment?

10 A. He was very irate. He didn't feel that -- he said
11 that he didn't deserve Gail and he didn't deserve to live.
12 He was -- I cannot say that in parentheses (sic), he said,
13 "I'm going to kill him," but he was mad in the aspect of
14 saying things about Kenneth Franks.

15 Q. Your testimony had been that the Defendant, at
16 some point in time in June of 1982, had encouraged you to
17 leave David Spence; is that correct?

18 A. Yes, sir.

19 Q. Let me direct your attention to August of 1982.
20 Did the Defendant -- did you ever have discussions with the
21 Defendant in this case, Muneer Deeb, with reference to David
22 Spence and whether you should leave him or not?

23 A. Yes, sir. On August 7th, which was my last day at
24 Rainbow Drive-In, I was leaving Waco to move -- or to get
25 away from David and I -- my sister was coming down, as soon

1 as my shift ended, from Fort Worth to pick me up and take me
2 up with her. Shortly before my sister came into the store,
3 David came into the store. And he started crying and
4 bawling and saying how I love you and I will die without
5 you. And I kept trying to get out of the store and at one
6 point ---

7 Q. Chris, just be careful. Try the best you can not
8 to relate anything that David Spence said, but the things
9 that the Defendant said, Mr. Deeb said, I want you to tell
10 this jury.

11 A. Deeb, at one point, and Kareem, asked me to stay
12 and they said -- they were telling me how he had changed
13 and ---

14 Q. How who had changed?

15 A. How David had changed and how he wasn't going to
16 beat me anymore and how he wasn't going to drink anymore and
17 everything would be okay if I stayed.

18 Q. That was the statements that the Defendant in this
19 case, Muneer Deeb, told you on August the 7th of 1982?

20 A. Yes, sir.

21 MR. LANE: Pass the witness.

22 Thanks, Chris.

23 (Pause in proceedings.)

24 MR. LANE: I'm sorry, Judge. There is one other
25 thing that I need to go into before he starts his

1 cross-examination, if it please the Court.

2 THE COURT: Go ahead.

3 BY MR. LANE:

4 Q. Chris, in late June or early July of 1982, did you
5 ever have an occasion to be in the presence of David Spence,
6 Gilbert Melendez and Tony Melendez?

7 A. Yes, sir.

8 Q. What was the circumstances surrounding all of you
9 being together?

10 A. We had driven out to Spiegleville Park to shoot
11 -- not I, but the three gentlemen -- to shoot a little .22
12 gun, that they were shooting signposts and stopsigns and
13 stuff like that.

14 Q. When do you remember that being, as best you can
15 recall?

16 A. Summertime. I had my -- I was wearing shorts
17 -- or a pair of bluejeans. I was not allowed to wear
18 shorts. A short-sleeved shirt. And I had my hair, which
19 was very -- was longer back then. I had it up in a little
20 white painter's cap. And I remember it was very hot.

21 We were out at Spiegleville, just shooting the
22 gun, and it was probably one of the only times that David
23 ever took me anywhere.

24 Q. What kind of vehicle were you in, if you recall?

25 A. A pickup truck, an older model pickup truck.

1 Q. Okay. Had you ever been to Spiegleville Park
2 before?

3 A. Yes, sir.

4 Q. How did you know where Spiegleville Park was?

5 A. Growing up, we went camping quite a bit, my
6 family. We would camp most of the time at Spiegleville
7 Park, down by the old washed-out bridge, and there was an
8 old fire station that the kids used to go play at quite a
9 bit.

10 Q. Be honest with this jury, Christ. Did you ever do
11 anything else while you were growing out at Spiegleville
12 Park?

13 A. Well, we hunted rattlesnakes.

14 Q. Your family was rattlesnake hunters, weren't they?

15 A. You could say that.

16 Q. Was this area well known for rattlesnakes?

17 A. Yes, sir.

18 Q. How about chiggers? A lot of chiggers out there
19 in this area?

20 A. As I recall, yeah, there were a lot of chiggers.

21 Q. Let me show you what is before this jury as
22 State's Exhibit No. 1 and ask you: Do you recognize the
23 scene that is depicted in that? Might take you a minute to
24 get oriented.

25 A. Gosh, it has been ten years.

1 This is Lake Waco. There is a bridge that is
2 here.

3 MR. LANE: May it please the Court, can she step
4 down here?

5 THE COURT: Sure.

6 BY MR. LANE:

7 Q. Chris, step down here to the jury.

8 What I want you to do, Chris, we may have to do it
9 twice, be sure that the folks at the end of the jury can see
10 where you are.

11 Describe generally -- I think now I've got it
12 turned upside where you were looking at. You indicated the
13 twin bridges.

14 A. Yes.

15 Q. Do you recognize the scene that is generally
16 depicted in this area?

17 A. Yes.

18 Q. Okay. Where is Spiegleville Park?

19 A. Oh, God, you want me to remember that from ten
20 years ago?

21 Came across the bridge, down -- split off.

22 Q. Let me see if I can do better.

23 You are indicating part of that park looks like it
24 had been cut off there?

25 A. Yes, sir.

1 Q. Chris, why don't you have a seat for a second
2 while I try to locate this. I don't know. Let me try
3 -- let me look at this one and see if this helps.

4 Let me hand you what has been marked and what is
5 before this jury as State's Exhibit No. 63 and ask you if
6 that area looks familiar to you.

7 A. This could be Spiegleville Park.

8 Q. Okay.

9 A. Because the trees -- there's a lot of trees and
10 you have a dirt road that goes back up (indicating). I
11 haven't been there in ten years.

12 Q. When you -- well, I tell you what. Let's try
13 walking this thing through.

14 When you were riding around with Gilbert Melendez
15 and David Spence and Tony Melendez and they were shooting up
16 signs, I think you said, with a .22?

17 A. Yes, signs.

18 Q. Do you recall going to Spiegleville Park?

19 A. We were going into Spiegleville Park when they
20 first started shooting the signs. They would start every
21 little bit and shoot the signs.

22 Q. Where did y'all eventually go in Spiegleville
23 Park? Do you recall?

24 A. We first started off on kind of the main -- the
25 main drag. It started paved and then it turned to gravel.

1 And then at one point of the park, the roads cut off like
2 this. This road here goes up into a clearing. You go
3 through some trees and it goes into a clearing. This point
4 here (indicating) goes down into a picnic area or
5 campground. I knew that very well because we camped out
6 there several times as a child.

7 I never drove back then. I didn't know how to....

8 Q. You didn't drive back then?

9 A. Yeah.

10 Q. Okay. But you remember going down into the park
11 area?

12 A. Oh, yes, sir.

13 Q. Do you ever remember getting down in close to the
14 lake, down in the wooded area?

15 A. Where the trees -- I mean, where the roads
16 separate, there are trees on this side of you. The lake is
17 over here (indicating), but you don't really see the lake
18 through the trees. There are several big trees and it's
19 pretty covered. It is a little bit cooler there in the
20 midday.

21 Q. Dense ---

22 A. Very.

23 Q. --- area?

24 Okay. Did it appear there were like just trails
25 down in through these trees or ---

1 MR. DeGUERIN: Leading and suggestive.

2 THE COURT: Sustained.

3 BY MR. LANE:

4 Q. How did it appear to you?

5 A. Deserted. There was nobody there but us.

6 Q. Describe the road conditions where you were.

7 A. Dirt roads. Bumpy roads. Not really well
8 maintained. As far as I recall, there were shrubs and
9 things like that in the middle of the road, where the shrubs
10 kind of grow up a little bit. It was deserted. There was
11 nobody there.

12 Q. Okay. This trip that you took out to Spiegleville
13 was approximately when? The summer of 1982, in the early
14 summer ---

15 A. The early summer of '82.

16 Q. --- of '82?

17 I think that's all I've got. Thanks, Chris.

18 MR. LANE: Now we pass the witness, Judge.

19 CROSS-EXAMINATION

20 BY MR. DeGUERIN:

21 Q. Ma'am, your name is Spence -- I mean, Sterling
22 now?

23 A. Sterling, yes.

24 Q. And in July of 1982, your name was Juhl or Spence?

25 A. It was Juhl then.

1 Q. Did you go by Spence from time to time?

2 A. I don't recall signing a lot of documents Spence.
3 I usually signed most of everything, my checks and
4 everything, with Juhl. But I'm sure at times that I would
5 tell people that I was his old lady or his wife.

6 Q. Well, did you sign the insurance application as
7 Christine Spence?

8 MR. LANE: I'm sorry, Judge. I had taken it away
9 from her.

10 A. I don't recall.

11 I signed it Christine Spence.

12 BY MR. DeGUERIN:

13 Q. That is your handwriting?

14 A. That is my signature, yes.

15 Q. And you wrote that?

16 A. Yes, sir.

17 Q. When you left Waco on August the 7th of 1982, I
18 believe that was the day ---

19 A. Yes, sir.

20 Q. --- that you referred to?

21 A. Yes, sir.

22 Q. That is when David Spence came into the store, you
23 were in the store, and Muneer Deeb was there, and Spence was
24 crying and asking you not to leave?

25 A. Yes, sir.

1 Q. By that time, had you married Mayer Tomimi yet?

2 A. No, sir.

3 Q. When did you marry Mr. Tomimi?

4 A. August 18th, 1982.

5 Q. Okay. Had you planned yet to marry Mr. Tomimi? I
6 mean, was that ---

7 A. No, sir.

8 Q. You were at that time, though, living not in Waco,
9 but living someplace else?

10 A. Up until August 7th? Is that ---

11 Q. August 7th, August the 8th -- August the 7th.

12 A. Before August the 7th, I was living at -- it was
13 D.J. or J.D.'s house, which was catty-corner across the
14 street from Rainbow Drive-In.

15 Levitch was his last name, if I am not mistaken.

16 Q. The way you got to stay temporarily at D.J.
17 whatever his name's house is, is that Muneer arranged that
18 for you; isn't that right?

19 A. Not that I recall. D.J. was a frequent customer
20 in the store and he knew what was going on with David, as I
21 recall. And I don't -- I can't really say for sure how it
22 came about, but him and his wife took me in.

23 Q. Well, they were acquaintances and frequent
24 customers of the Rainbow Drive-In, weren't they?

25 A. Yes, sir, and they also worked on David's car.

1 Q. And they worked on Muneer's car?

2 A. Yes, they did.

3 Q. And are you saying that you don't know or that it
4 did not happen that Muneer Deeb arranged for you to be able
5 to stay with them and get away from David, in other words?

6 A. I don't recall, sir.

7 Q. It is true that your reason for staying with them
8 was to get away from David?

9 A. Yes, sir.

10 Q. When Muneer made the arrangements for you to have
11 the little small apartment that was near the Rainbow
12 Drive-In, the one that was behind the Rainbow or downstairs,
13 the small apartment ---

14 A. Yes, sir.

15 Q. --- and the upstairs small apartment?

16 A. Yes, sir.

17 Q. That was so that you could get away from David,
18 wasn't it?

19 A. Yes, sir.

20 Q. And when Gail Kelley moved out, or Muneer had her
21 moved out of the apartment that he rented for her at the
22 Northwood Apartments, Muneer offered it to you, didn't he?

23 A. He offered it to David and I.

24 Q. He offered it to you, didn't he?

25 A. He offered it to David and I.

1 Q. Didn't you originally tell this jury that he
2 offered it to you?

3 A. Sir ---

4 Q. Did you or not tell this jury first that he
5 offered it to you?

6 A. Oh, yes, sir.

7 Q. All right. And you told Muneer some of the things
8 that David Spence was doing to you, didn't you?

9 A. Oh, yes, sir.

10 Q. But you did not tell Muneer all of the things that
11 David was doing to you, did you?

12 A. No, sir.

13 Q. What you detailed to this jury is extremely hard
14 for you to talk about, isn't it?

15 A. Yes, sir.

16 Q. And it was a terrible, terrible experience for
17 you, wasn't it?

18 A. Yes, sir.

19 Q. I'm -- I don't know this for a fact, but it seems
20 to me that you've probably even sought some counseling to
21 help you get over what has happened to you, haven't you?

22 A. Yes, sir.

23 Q. The fact that you recognized the business about
24 feeling like it was your fault, and you know now through the
25 therapy that that is common with people who are victims of

1 abuse, don't you?

2 A. Yes, sir. I teach it myself.

3 Q. In fact, one of the most effective ways of dealing
4 with it is to help other people that have gone through the
5 same thing?

6 A. Yes, sir.

7 Q. To try to break the cycle of abuse?

8 A. Yes, sir.

9 Q. You know all of this through your therapy?

10 A. Yes, sir.

11 Q. But in June and July of 1982, you did not tell
12 Muneer Deeb of details of what David Spence was doing to you
13 and having done to you; isn't that right?

14 A. Of the sexual things, no.

15 Q. Of course, it was obvious to anyone that was
16 around you that from time to time you had bruises?

17 A. Yes, sir, I did.

18 Q. From time to time, you had a black eye or a busted
19 lip or something of that nature?

20 A. More often than not.

21 Q. And you would cry about it and talk about how
22 David was being mean to you.

23 A. Yes, sir.

24 Q. You told that to Muneer?

25 A. Yes, sir.

1 Q. You told that to Kareem?

2 A. Yes, sir.

3 Q. Did you tell that to Kareem's wife, Maria, or Lisa
4 -- she is known by both names, isn't she?

5 A. I remember her name is Lisa, but -- that is --
6 also could be a mistake, because I know that it was Maria.

7 Q. All right. Did you tell her about the abuse?

8 A. I don't recall.

9 Q. She really wasn't in the store as an employee very
10 often, was she?

11 A. No, sir, she didn't come into the store.

12 Q. She was very jealous, wasn't she?

13 A. Yes, sir, she was.

14 Q. Kept an eagle eye out for you and Kareem, even
15 though there was no reason to do that; isn't that right?

16 A. I don't know whether she did that or not.

17 Q. And for the most part, when you told the people
18 that you told about the physical abuse that you were
19 receiving, they were very sympathetic?

20 A. Yes, sir, they were.

21 Q. And it is in that sense that Muneer helped you
22 find and got for you the little small apartment first behind
23 the Rainbow Drive-In, right?

24 A. Correct.

25 Q. And you dispute whether that was another reason

1 for the Northwood Apartment, allowing you to stay there
2 where he had already paid the rent and then deducting it
3 from your paycheck?

4 A. I dispute whether he got it for me or he got it
5 for David and I. That is what I dispute. I do not dispute
6 that he did arrange for the apartment.

7 Q. Did you stay there only a short time?

8 A. Yes, sir.

9 Q. From August the 10th to August -- excuse me. July
10 the 10th to July the 20th?

11 A. That sounds about right.

12 Q. Okay. And then, because of continued abuse by
13 David, you moved out?

14 A. Yes, sir.

15 Q. And Deeb helped you find a place to live then;
16 that is, with D.J. ---

17 A. Yes. Well, D.J. was a friend of mine, also.

18 Q. --- is that right?

19 A. I don't recall that Deeb set it up.

20 D.J. worked on my car. He came in when I worked
21 my shift and we were friends, and his wife and I were
22 friends.

23 Q. But you don't dispute that Deeb played a part in
24 helping you stay for a brief period of time with D.J., do
25 you?

1 A. Will you repeat that, please?

2 Q. You don't dispute that Muneer Deeb played a part,
3 at least, in helping you to move, get away from David and
4 live with D.J. for a period of time?

5 A. I don't recall Deeb ever getting the place for
6 us. I recall that I moved in with D.J. and his wife, and
7 that D.J. and his wife and I were friends. But I do not
8 recall Deeb setting that up.

9 Q. You decided, though, to move to Fort Worth, was
10 it, or Dallas?

11 A. Fort Worth.

12 Q. Fort Worth.

13 And did so on August the 7th?

14 A. Yes, sir.

15 Q. Did you work at the Rainbow up until that time?

16 A. Yes, sir, I did.

17 Q. And then, on the way out, as you were leaving,
18 David came to the store and tearfully begged you to come
19 back to him and there was some scene there. But you didn't
20 come back to him; is that right?

21 A. No, sir, I did not.

22 Q. And from August the 7th, you were in Fort Worth
23 until what date? Do you remember when you came back to
24 Waco?

25 A. August the 17th. I was only there a few days.

1 Q. Okay. You were making arrangements of where to
2 live or what you were going to do, get a job, things of that
3 nature?

4 A. No, sir.

5 Q. Okay. You returned to Waco on August the 17th and
6 then on August the 18th, married Mayer Tomimi?

7 A. Yes, sir.

8 Q. And then did you go back to Fort Worth?

9 A. Yes, sir, a short time after.

10 Q. All right. And did you stay in Fort Worth then?

11 A. Up until the time that I was called to come down
12 after Deeb was arrested, yes.

13 Q. Okay. So we can be real clear on that, from the
14 7th until the 17th -- from the 7th to the 17th of August,
15 you were in Fort Worth, right?

16 A. Yes, sir.

17 Q. You came back for two days, or thereabouts, on the
18 17th, married Mr. Tomimi?

19 A. Yes, sir.

20 Q. And then returned to Fort Worth on what date? The
21 18th? 19th?

22 A. No, sir. I would have to say it was -- I don't
23 know the exact dates, but it would have been the following
24 Monday.

25 Q. All right. And you married him on what day?

1 A. I think it was a Thursday.

2 Q. Okay. So the Thursday was the 18th, Friday would
3 have been the 19th, 20th, 21st -- the 22nd is when you went
4 back to Fort Worth?

5 A. As I recall, yes.

6 Q. And then you came to Waco after Muneer was
7 arrested?

8 A. Yes, sir.

9 Q. And specifically, that would have made it what?
10 September the 15th? 14th? He was arrested on the 13th.

11 A. I don't remember the exact day.

12 Q. How many days after Muneer had been arrested did
13 you come back to Waco?

14 A. The police had called my mother that morning and
15 my mother called my sister at work. And that evening, I
16 came down. But I don't know ---

17 Q. Go ahead and tell us what that morning ---

18 A. I don't know if it was that day or the day after
19 or -- I really -- I can't remember.

20 Q. What day of the week was it?

21 A. I really don't remember. My sister was in the Air
22 Force, so she didn't work Monday through Friday. But I know
23 she was at work that day, but that doesn't mean anything.

24 Q. I realize it is often easier to remember things by
25 events rather than dates, but -- and you don't remember the

1 day of the week it was that you came back to Waco ---

2 A. No, I don't.

3 Q. --- to be interviewed by the police?

4 A. By Bowers?

5 Q. Byars?

6 A. Byars was the gentleman's name.

7 Q. Bayers? I'm not sure how it's pronounced, either.

8 Dennis was his first name.

9 A. Yes, Dennis was his first name.

10 Q. He was a detective who was at that time working
11 along with Truman Simons. You knew that?

12 A. Yes, sir.

13 Q. And you were interviewed, weren't you?

14 A. Yes, sir.

15 Q. Were you aware when you came back that David
16 Spence had been arrested about four days earlier?

17 A. No, sir.

18 Q. On September the 10th?

19 A. No, sir.

20 Q. Did you later became aware that David Spence, from
21 September the 10th on, was in jail?

22 A. Yes, sir, I did.

23 Q. Okay. And, in fact, I think you went to see him a
24 couple of times?

25 A. Oh, yeah, I did.

1 Q. And let me ask you -- it might sound a little
2 silly to you because I think I know what your answer is, but
3 since you were not in Waco between the time that David
4 Spence was arrested and Muneer Deeb was arrested, which
5 would have been between September the 10th and September the
6 13th, you naturally were not in the Rainbow store during
7 that time, were you?

8 A. No, sir.

9 Q. That time or any other time, you did not go to
10 Muneer Deeb and ask for money for David Spence that Muneer
11 Deeb owed him, did you?

12 A. No, sir.

13 Q. That is just not -- that never happened, did it?

14 A. No, sir.

15 Q. Now, you, of course, knew about, everybody in Waco
16 knew about, the murders that occurred at the lake, July
17 13th, 14th, you knew about that?

18 A. Yes, sir.

19 Q. It was all over town, people were talking all over
20 and so forth, right?

21 A. On the 15th, yes, sir.

22 Q. And thereafter, people talked about it and it was
23 on the news and in the newspapers and so forth?

24 A. Yes, sir.

25 Q. You knew Kenneth Franks, maybe not personally, but

1 who he was, didn't you?

2 A. Yes, sir.

3 Q. You knew Gail Kelley from coming into the Rainbow
4 store, didn't you?

5 A. Yes, sir.

6 Q. She came in quite often, didn't she?

7 A. Yes, sir.

8 Q. Let's talk about that just a moment.

9 First, your testimony is that you started work at
10 the Rainbow store or the Rainbow Drive-In in March of 1989?

11 A. '82.

12 Q. I said '89. You are right. 1982.

13 Do you have any -- any point of reference that
14 makes you certain about that day?

15 A. I didn't say a day. I said a month. And ---

16 Q. Any kind of event that you can relate it to?

17 A. I was no longer working for Kim Drive-in -- I
18 mean, the Kim was a restaurant on -- I don't remember if it
19 was Waco Drive or LaSalle Drive, one of those drives. And
20 shortly after that, I had to have a job. I did not go
21 without working.

22 Q. When was your last day at the Kim Drive-In?

23 A. You know, I don't know.

24 Q. Okay. Spell the name Kim?

25 A. K-i-m.

1 Q. Just Kim Drive-In?

2 A. K-i-m, apostrophe S, Kim's.

3 Q. Where was it located in Waco?

4 A. It was on one of the main drags. It was -- when
5 you went up 15th Street going towards I-35. It was the
6 second light there. Pretty busy road, like four lanes of
7 traffic, because everybody would have to cross it everyday.

8 Q. You have been back to Waco recently?

9 A. I spent the night down there Saturday night with
10 my mother, but I have not driven through Waco, no.

11 Q. Do you know if Kim's is still there?

12 A. No, sir, I don't.

13 Q. Okay. And that is the last job that you had
14 before you went to work for Muneer Deeb and Kareem at the
15 Rainbow ---

16 A. As I recall, yes, sir.

17 Q. --- Drive-In?

18 A. Yes, sir. As I recall, that is the last job.

19 Q. Is it possible that you are not clear on that
20 because of the passage of time?

21 A. No. No. I am about 99 percent sure it was Kim's
22 Drive-In.

23 Q. But you don't know exactly when your last day
24 there was?

25 A. No.

1 Q. Could it have been as late as May?

2 A. No.

3 Q. Well, when you went into the Rainbow Drive-In,
4 you'd never been in there before, correct?

5 A. No, sir.

6 Q. It was already open, right?

7 A. Yes, sir.

8 Q. It was already in business?

9 A. Yes, sir.

10 Q. Deeb was there, working there, correct?

11 A. Yes, sir.

12 Q. You knew the last time that you had seen him he
13 worked at Datapoint?

14 A. Yes, sir.

15 Q. And had a fulltime job at Datapoint, as far as you
16 know?

17 A. I wouldn't know that.

18 Q. When did you see him when he came to the Taco
19 Torch? What hour?

20 A. Evenings.

21 Q. Evenings?

22 A. Evenings.

23 Q. Evening means what?

24 A. Six. Around the clock. I worked mostly night
25 shifts at Taco Torch. In the Hewitt store, I worked from

1 6:00 p.m. till closing, which was eleven, and twelve on
2 weekends.

3 Q. Okay. When you would see Muneer at the Taco
4 Torch, it would be after ordinary working hours?

5 A. After six o'clock, yeah.

6 Q. After 6:00 p.m. in the evening?

7 A. Yes, sir.

8 Q. Okay. But by the time that you went into the
9 Rainbow Drive-In for the first time in your life, Muneer
10 Deeb was there and no longer working, as far as you could
11 tell, at Datapoint, right?

12 A. Yes, sir.

13 Q. Did you have a conversation with Muneer at any
14 time about how he had come to either lose his job or be laid
15 off at Datapoint?

16 A. Not that I recall, sir.

17 Q. Or when that occurred?

18 A. No, sir.

19 Q. All right. But by the time you met him, bumped
20 into him, running out -- to get out of the rain, that was
21 during the day, wasn't it?

22 A. Yes, sir.

23 Q. By during the day, I mean between eight and
24 five ---

25 A. Yes, sir.

1 Q. --- and during the ordinary workday.

2 A. Yes, sir.

3 Q. And he was there?

4 A. Yes, sir.

5 Q. Not at Datapoint?

6 A. No, sir.

7 Q. Okay. Now, do you know where you had been that
8 day before you went into the Rainbow Drive-In? I think you
9 said that you had been looking for a job.

10 A. I just would go from business to business to
11 business to business to business, keep knocking on doors,
12 asking if they were hiring.

13 Q. Were you driving or walking?

14 A. No, sir. I walked.

15 Q. Okay. And at that time, you were living with
16 David Spence at David Spence's mother's house?

17 A. Yes, sir.

18 Q. And that was on 15th Street, I believe?

19 A. Yes, sir, 1901 15th Street.

20 Q. How close is that -- for the jury, so they can
21 understand, how close was David Spence's house to the
22 Rainbow Drive-In?

23 A. Within what I would consider nine to ten walking
24 blocks. It was within walking distance. I would walk to
25 work quite a bit when I lived at David's mother's house.

1 Q. Okay. And you had been out walking and it started
2 raining and you got wet and you wanted to get in out of the
3 rain, right?

4 A. Yes, sir.

5 Q. You weren't cold. It wasn't a matter of it being
6 a cold wintry day; it was just raining and you got wet?

7 A. Yeah.

8 Q. Well, now, of course, Waco is not quite as far
9 north as Fort Worth, but March is generally not a real warm
10 time, is it?

11 A. December is not warm -- I mean, not cold here.

12 Q. December. I am talking about March.

13 A. December is not cold to me. I have never been one
14 to wear coats.

15 Q. Okay. What I'm trying to get you to examine as
16 best you can, in your own memory, when this happened. You
17 are not certain, are you?

18 A. As I'm recalling, it was in March of '82. I don't
19 know the date.

20 Q. Well, let's go at it this way. How many different
21 weeks -- how many weeks did you work at the Rainbow
22 Drive-In?

23 A. How many different weeks?

24 Q. No. I said different weeks, but I changed it.

25 How many weeks, total, did you work at the Rainbow

1 Drive-In?

2 A. From March until August the 7th.

3 Q. Well, I understand that, since you are saying you
4 started in March, but I'm trying to get you to examine in
5 your own mind, in your own memory, as best you can, when you
6 started.

7 Do you remember it by thinking about how many
8 weeks you got paid for it?

9 A. No, sir.

10 Q. Well, let's see if we can go at it this way.

11 Where was David Spence working, if he was?

12 A. No, sir, he was not working.

13 Q. All right. What was the last job he had when you
14 went to work at the Rainbow Drive-In?

15 A. I don't recall.

16 Q. What was the next job he had when you went to work
17 at the -- after you went to work at the Rainbow Drive-In?

18 A. The only job that I recall him having that it was
19 (indicating) a fulltime job, where he actually worked, was
20 at the YMCA.

21 Q. I'm sorry?

22 A. At the YMCA. But he did odd jobs in between then,
23 but nothing that was substantial, so....

24 Q. Was he working at the YMCA when you went into the
25 Rainbow or not?

1 A. I don't recall, sir.

2 Q. Possible that he was?

3 A. No, because if he would have been working, then
4 maybe I wouldn't have to have gone down every street in Waco
5 looking for a job.

6 Q. Now, you know that you had to look for a job and
7 you had to work, anyway, because he never held a steady job;
8 isn't that right?

9 A. Correct. If he had some kind of paycheck coming
10 in, I wouldn't have been out walking.

11 Q. Didn't you tell the jury that you always had to
12 work and were almost never without work?

13 A. That's correct.

14 Q. Okay. Back to the question. Can you tell us to a
15 certainty that David Spence was working or not at the YMCA
16 when you went into the Rainbow Drive-In for the first time?

17 A. No, sir, I can't say that with certainty.

18 Q. You can't say that he was and you cannot say that
19 he was not?

20 A. Exactly.

21 Q. All right. Now, you know that he started working
22 at the Woodway branch of the YMCA on May the 8th, 1982, and
23 worked there until July the 8th of 1982, don't you?

24 A. I don't recall the exact dates.

25 Q. You were shown the record of David Spence's

1 employment at the YMCA by Dennis Bayer and Truman Simons,
2 weren't you -- excuse me, by Detective Salinas and Dennis
3 Bayer?

4 A. Excuse me, sir. That was ten years ago.

5 Q. Yes, I know that, ma'am.

6 Were you shown those records or not?

7 A. Oh, I'm sure I was.

8 Q. Okay. And you have seen the written statement
9 that you gave to them, haven't you?

10 A. Yes, I have.

11 Q. Seen it recently?

12 A. Yeah, a couple of months ago.

13 Q. In preparation for this trial?

14 A. Yes, I was asked to read over it to see if
15 anything was -- was -- if everything was in the correct
16 order as I could remember it.

17 Q. Well -- and so you know that -- you know from your
18 own recollection and you also know from looking at your
19 statement, that as part of the interrogation, if you want to
20 call it that, or part of taking of the statement from you by
21 Detective Salinas and Buyar, or Bayer, they showed you
22 records of where David Spence worked and when he worked
23 there?

24 A. Yes, sir.

25 Q. And, thus, do you now remember, with perhaps your

1 recollection refreshed, that David Spence worked at the YMCA
2 from May the 8th, '82, until July the 8th, '82, and then
3 transferred to the downtown branch? Worked at the Woodway
4 branch from May the 8th to July the 8th and then at the
5 downtown branch from July the 8th to July the 16th.

6 MR. LANE: Objection, unless she ---

7 BY MR. DeGUERIN:

8 Q. Do you know that?

9 MR. LANE: Objection, unless she has personal
10 knowledge of that, specific memory as opposed ---

11 THE COURT: Overruled.

12 You may answer if she knows.

13 A. No, sir. One thing I did do was sit down and
14 study every detail of the information that Mr. Lane gave me
15 three months ago. I did not -- I did not sit down and study
16 it.

17 Q. What you are saying ---

18 A. I looked over it to help refresh my memory, but I
19 did not sit down and memorize every day on there. I'm bad
20 at numbers as it is.

21 Q. All right. That's fine. No one is going to
22 criticize you for that. I was just trying to get at the
23 facts.

24 What you are saying is you didn't memorize the
25 dates that are in your statement ---

1 A. No, sir.

2 Q. --- but you did read it?

3 A. Yes, sir.

4 Q. Did you get a copy of it? Did Mr. Lane send you a
5 copy of it?

6 A. No, sir.

7 Q. Did you sit down with Mr. Lane and he give you a
8 copy of it?

9 A. Yeah, he sat down and we went over it and we
10 talked about it.

11 Q. Were you able to keep a copy of it?

12 A. No, sir. As a matter of fact, I left it up in his
13 office when I left.

14 Q. Okay. But you do remember?

15 A. Oh, yes, I remember reading over it, yes.

16 Q. And you do remember that Mr. Bayer and Mr. Salinas
17 gave you various records, not only from the Y, but from
18 several other sporadic jobs that David had, so you could
19 talk about them in your statement.

20 A. Yes, sir.

21 Q. And you said that during the time that David
22 worked for the YMCA, you moved into the little apartment,
23 right?

24 A. Well, if the dates on that are correct, then, yes.

25 MR. LANE: It might be appropriate -- excuse me,

1 counsel. If he is going to continue to question her from
2 the statement she gave ten years ago, if he would provide
3 her with a copy of it so she can at least read along and
4 know what he is talking about.

5 MR. DeGUERIN: I don't have any objection to that,
6 Judge. Maybe the copy that Mr. Lane intended for her to
7 have would be all right, and -- I've got some marks on mine.

8 MR. LANE: I've got marks on mine. As long as ---

9 MR. DeGUERIN: Let's see if we can find a clean
10 one.

11 BY MR. DeGUERIN:

12 Q. Here is a clean one.

13 A. Thank you, sir.

14 Q. Now, just some ground rules, Ms. Juhl. I will ask
15 you about some things. Your statement is hearsay, just as
16 your Grand Jury testimony is hearsay, and I am not asking
17 you to read out loud from your statement. It's not proper
18 for me or them or anybody else to do. I want to ask you
19 whether you remember some things.

20 First, did you try to be as accurate as possible
21 when you were giving this statement to the police?

22 A. Uh....

23 Q. The answer is not in the statement.

24 A. No. I am trying to figure ---

25 Q. Simple question. Did you try to be as accurate as

1 possible when you were being questioned?

2 A. Yes, sir.

3 Q. Because there was a lot at stake, right?

4 A. Yes, sir.

5 Q. Whatever information you had, you wanted to be
6 truthful about it, right?

7 A. Yes, sir.

8 Q. And you wanted it to be accurate as much as
9 possible, correct?

10 A. Well, yes, sir.

11 Q. The actual written statement was compiled and read
12 and written and signed and sworn to on July the 5th, 1983,
13 wasn't it?

14 A. Yes.

15 Q. Okay. And one of the things that the detectives
16 helped you with was to have records that they had gathered
17 of David Spence working at various places, right?

18 A. Yes, sir.

19 Q. And they were able to show you those so that when
20 you talked about various events, you would have a reference
21 point and be more accurate; isn't that right?

22 A. Yes, sir.

23 Q. Okay. It is true, isn't it, that at the time that
24 you moved into the little apartment, the one that Deeb
25 arranged for you to move into, David was working for the Y?

1 A. He must have been, yes.

2 Q. All right.

3 A. By the dates given to me.

4 Q. Now, let's talk about that as putting a time on
5 when you went to work for the Rainbow.

6 It was shortly after you went to work for the
7 Rainbow that Muneer Deeb saw that you were coming to work
8 sometimes in tears and sometimes with black eyes and
9 sometimes with a split lip, and you were telling him some of
10 the things that were going on with David, right?

11 A. Yes, sir.

12 Q. And that is when Deeb helped you get the little
13 apartment so that you could get away from David, right?

14 A. Yes, sir.

15 Q. Okay. So, now, doesn't that kind of refresh your
16 recollection a little bit, that when you went to work for
17 the Rainbow, it was a little bit later than March? Really
18 in May of 1982?

19 A. No, sir.

20 Q. When you went into the Rainbow to get out of the
21 rain and bumped into Muneer and, in the discussions, asked
22 him if he needed some help -- in other words, a job, if you
23 could get a job there -- what he told you was that he wasn't
24 ready to hire you yet; isn't that right?

25 A. No, sir. He hired me right there on the spot.

1 Q. Didn't you have to fill out a little employment
2 application?

3 A. Not that I recall, sir.

4 Q. Didn't he tell you that he would call you?

5 A. No, sir.

6 THE WITNESS: Could I get some more water, please?

7 THE COURT: Sure. I have it right here.

8 THE WITNESS: Thank you, sir.

9 BY MR. DeGUERIN:

10 Q. The job that you had about before Kim's Restaurant
11 was at Home Craftsman, wasn't it?

12 A. Yes.

13 Q. Did the officers, at the time they were giving you
14 some information about dates about David Spence, did they
15 also have some information about your own job records?

16 A. Oh, yeah, I'm sure they did.

17 Q. Okay. And they were able to show you that so,
18 again, your testimony, your evidence, the information that
19 went into your statement could be more accurate, right?

20 A. I'm sure they tried their best, yes.

21 Q. And you referred to whatever records they had to
22 show you whenever you needed to for a reference point, just
23 as we've seen on the reference points about David; isn't
24 that right?

25 A. No, sir. In particular, with this case, where

1 this was filled out, I talked to them on several occasions.
2 They wrote this up, filling in the dates themselves, and
3 then I was asked to read over it.

4 Q. For accuracy?

5 A. Excuse me?

6 Q. For accuracy.

7 A. For accuracy.

8 Q. And you did?

9 A. Yes.

10 Q. And you signed it?

11 A. Yes.

12 Q. You made even some changes, didn't you?

13 A. I made ---

14 Q. As you saw necessary.

15 A. I made a spelling change on page two. And then I
16 added a few things that they asked me to at the end. Those
17 were the only changes made.

18 Q. So, then, everything else you checked for accuracy
19 and it was accurate?

20 A. Yes, sir.

21 Q. All right. Well, how did you lose the job at
22 Kim's, the one before you had the Rainbow job? Was it ---

23 A. I was fired.

24 Q. Okay. Well, when you gave your statement to the
25 officers, whatever information that they had that they were

1 helping you with, whatever records you had that you could
2 refer to, the bottom line is you told and swore to the
3 officers that you had the job at Kim's restaurant from March
4 of 1982 to May of 1982, didn't you?

5 A. Yes, sir. I guess I was wrong about my dates.

6 Q. Okay. Now that we have that straight, see if this
7 doesn't also serve to jog your memory a little bit. May, we
8 all know, is when school lets out, toward the end of May.
9 Summer is upon us. The store got busier during the summer.
10 You went to work right at that transition period, after you
11 were fired at Kim's in May of 1982, right about the time
12 that summer was to begin; isn't that right?

13 A. If the dates are correct, then, yeah, that would
14 be correct.

15 Q. Well, understanding -- we all understand that ten
16 years has gone by since the events that you tried to
17 accurately describe in July of 1983, but we all understand
18 and I think it's correct and you tell us if it's correct,
19 that you tried to be as accurate closer to the events, nine
20 years closer to the events, when you gave this sworn
21 statement to the officers; isn't that true?

22 A. Yes, sir, I tried.

23 Q. Now, you also testified before the McLennan County
24 Grand Jury in November of 1983, didn't you?

25 A. Yes, sir, I did.

1 Q. By that time, you had been away from David Spence
2 since August of 1982, a year and several months, right?

3 A. Yes, sir.

4 Q. If you had seen him, you'd only seen him by going
5 to visit him in the jail?

6 A. Yes, sir.

7 Q. And in the interim, you'd gotten married, you had
8 moved to Fort Worth. In November of 1983, were you still
9 living in Fort Worth?

10 A. No, sir.

11 Q. Where had you gone -- where were you living in
12 November of 1983?

13 A. Colorado.

14 Q. Okay. You and Mr. Tomimi got a divorce sometime
15 after that?

16 A. Sometime after that, yes.

17 Q. When did you get the divorce?

18 A. '86.

19 Q. Where did you get the divorce?

20 A. In Colorado.

21 Q. What county? Or what town?

22 A. La Plata County.

23 Q. I'm sorry?

24 A. La Plata.

25 Q. La Plata?

1 A. La Plata.

2 Q. And then you married the gentleman to whom you are
3 now married?

4 A. Yes, sir.

5 Q. Okay. When you testified in front of the Grand
6 Jury, you tried to be as accurate as you could, didn't you?

7 A. Yes, sir.

8 Q. That was quite a bit more formal than simply
9 sitting in the detectives' office and being asked questions
10 and having some of it written down and going back over it
11 and so forth. It was a lot more formal, wasn't it?

12 A. Yes, sir.

13 Q. Meaning that you were in the -- in a room with
14 just the Grand Jurors and Vic Feazell and Ned Butler, the
15 prosecutors at that time, and was there anybody else in the
16 room?

17 A. I don't remember.

18 Q. Okay. You were asked about this -- this time,
19 this conversation on the 4th of July, in the Grand Jury,
20 weren't you?

21 A. Yes, sir.

22 Q. Have you had a chance to see your Grand Jury
23 testimony?

24 A. Yes, sir, this morning at 8:00 o'clock with a
25 screaming child.

1 Q. Does that -- do I take it that your answer means
2 that you didn't get a chance to study it very well?

3 A. No, sir. I read over it as best I could.

4 Hold -- no. They handed me those last night.

5 Q. I beg your pardon?

6 A. They gave me those last night, before I went back
7 to my hotel room, if I am not mistaken. But I still didn't
8 get a chance to really read over it until this morning.

9 Q. Reading over is not going to change it. I just
10 wanted to know basically what your familiarity with it is
11 today.

12 Are you saying that you're a little bit familiar
13 with it, you had a chance to read it over, but you didn't
14 memorize, just like you had a chance to read over your
15 statement ---

16 A. Exactly. Exactly.

17 Q. --- and didn't memorize ---

18 A. Exactly.

19 Q. Okay. Well, let's talk about these events on the
20 4th of July. That is the date that you have testified that
21 you and David Spence and Muneer were in the store together.
22 Is that where the conversation took place?

23 A. Yes, sir.

24 Q. And that is when there was a discussion about
25 wrecking the little Triumph automobile?

1 A. Yes, sir.

2 Q. And collecting insurance on it?

3 A. Yes, sir.

4 Q. Now, in your direct examination, when Mr. Lane was
5 talking to you and asking you questions, you were asked
6 about that separately and apart from a little bit later in
7 his questioning, the conversation in which you said Muneer
8 Deeb said to David Spence, "Would you kill someone for
9 \$5,000?"

10 My question is: Actually, those conversations
11 were all rolled into one, weren't they? That was all part
12 of the same conversation?

13 A. Yes, sir, they were.

14 Q. It wasn't two separate conversations?

15 A. No, sir, they weren't.

16 Q. And to describe it for the jury, if -- you were
17 standing around and they were joking, weren't they?

18 A. No, sir, they were not joking.

19 Q. Oh, okay. Let's remember that that is your
20 statement about it right now and I will get back to it.

21 It is true, isn't it, that Muneer often joked?

22 A. Well, yeah, he -- he would joke with people, not
23 about murdering them, but, yes, he would joke.

24 Q. It is true that he had kind of an unusual sense of
25 humor, correct?

1 A. He had a good sense of humor.

2 Q. And he had a very heavy accent, isn't it?

3 A. Yes, sir.

4 Q. You knew that in 1982 he had only been in the
5 United States and in Waco, Texas, for about three -- about
6 three years?

7 A. I could understand everything he said.

8 Q. I didn't ask you that.

9 Did you understand me to ask you that?

10 A. No, sir.

11 Q. My question was: Did you know that he'd only been
12 in the country and in Waco, Texas, for about three years?

13 A. I didn't know the date, sir, but I knew that he
14 had not been in the country all of his life.

15 Q. You told the Grand Jury, didn't you, that Muneer
16 Deeb was the kind of person that was prone to joke and make
17 jokes and to say ---

18 MR. LANE: Objection. It's not proper
19 cross-examination.

20 BY MR. DeGUERIN:

21 Q. Didn't you tell the Grand Jury ---

22 MR. LANE: She never -- well, never mind. I
23 withdraw the objection.

24 BY MR. DeGUERIN:

25 Q. Didn't you tell the Grand Jury that Muneer Deeb

1 joked a lot?

2 A. Yes, sir.

3 Q. And about this specific conversation, didn't you
4 tell the Grand Jury that he was joking?

5 A. I spoke at the Grand Jury about how he asked David
6 to wreck his car and then asked David if he would kill
7 somebody for money. David said yes. And then I told them
8 to stop joking about it and they laughed it off, like it was
9 a joke, yes.

10 Q. Well, specifically about that conversation, didn't
11 you tell the Grand Jury in answer to the question to you, on
12 page 13, line 16.

13 MR. LANE: I doubt, Judge, very seriously that she
14 has a copy of the Grand Jury testimony.

15 MR. DeGUERIN: That is not necessary according to
16 the rules.

17 MR. LANE: If he is going to refresh her
18 memory ---

19 MR. DeGUERIN: I'm not refreshing her memory ---

20 MR. LANE: It's not a proper impeachment unless
21 she knows what it says ---

22 MR. DeGUERIN: --- doesn't want this out, Judge?
23 It's right here. It is ---

24 MR. LANE: Judge, I object to the sidebar. I have
25 no objections to it being set out ---

1 THE COURT: Sustain the objection to sidebar.

2 If you want to impeach the witness, we all know
3 how to do it. Do it the proper way.

4 MR. LANE: I object to her being impeached from a
5 document about her Grand Jury statement if she does not have
6 it in front of her, Judge.

7 MR. DeGUERIN: The rule doesn't call for it. I'm
8 sorry.

9 MR. LANE: The rule calls for her to recall
10 whether she's made a contradictory statement and then give
11 her an opportunity to refresh her memory from that and then
12 see if she still has the same statement. I object. It is
13 improper cross-examination.

14 THE COURT: She doesn't have to have it, to begin
15 with.

16 MR. LANE: No, but if he is going to cross -- he
17 can't assume that she's going to have said something until
18 he refreshes her memory with it. She can't possibly do that
19 from Grand Jury testimony ten years ago.

20 THE COURT: I think we all know how you're
21 supposed to do this. Do it the right way.

22 BY MR. DeGUERIN:

23 Q. Isn't it true that you told the Grand Jury that
24 they were started kidding around after that and Lucky just
25 goes -- quoting -- will you kill somebody for me, you know,

1 and David says, sure, you know, and I was going, no, you
2 won't, and it was more of a joking-around thing. I thought
3 they were playing.

4 Isn't that what you told the Grand Jury under oath
5 in 1983 when this was fresh on your mind?

6 A. From the way that it is worded, it sounds like
7 something I would say.

8 Q. Now, you -- you told the jury that the same day
9 that David Spence came in late, that that is the day that
10 Muneer Deeb told you about the death of Kenneth Franks. Do
11 you recall that is what you told this jury?

12 A. It was the next morning.

13 Q. Uh-huh.

14 A. The 13th that David came home late. On the 14th,
15 when he drove me to work and all the people followed him,
16 that is the day that Deeb told me.

17 Q. The way that you have testified before this jury,
18 you -- I get the impression it sounds like that you are dead
19 set certain on those dates now.

20 A. Yes, sir, I am.

21 Q. Are you?

22 I assume that you went over those dates with some
23 member of the prosecution or some -- some officer before you
24 testified, did you?

25 A. Sir, we talked about it, but nothing had changed.

1 Q. Did you go over those dates?

2 A. No. I don't remember dates.

3 Q. Well, yes, I recall that you said that you don't
4 remember dates and that is why I'm asking you. You say that
5 now that you know it was the 14th that this conversation
6 with Deeb occurred on which he said to you, "They killed the
7 son-of-a-bitch" and so forth.

8 A. Yes.

9 Q. Now, back in '83, you didn't know that, did you?

10 A. As I recall, back in '83, I was told by two
11 detectives that I could ---

12 Q. I'm not asking ---

13 A. --- not say ---

14 Q. I am not asking you what you were told by two
15 detectives, ma'am. I'm asking you a real simple question.

16 It's true, isn't it, that back in 1983, you didn't
17 recall the date that Deeb told you that Kenneth Franks had
18 been killed, did you?

19 A. No, sir.

20 Q. And neither when you testified before the Grand
21 Jury, nor when you gave your written statement, did you
22 assign a date to this conversation when Deeb told you about
23 Kenneth Franks being dead.

24 A. No, sir.

25 Q. It is just that here, ten years later, in front of

1 this jury, you now remember that it was the 14th; is that
2 right?

3 A. No, sir, I did not know the date. I knew it was
4 the day or the morning before they discovered the body. I
5 knew that. Now, I may not have said it was the 14th.

6 Q. What you told -- what you told Detective Salinas
7 and Bayer was that it was the day or two after, that Muneer
8 Deeb said that to you, wasn't it?

9 A. Yes, sir, and I also told them it was before it
10 ever came out in the news or the bodies were discovered.

11 Q. Well, have you read over your statement?

12 A. Yes, sir.

13 Q. And it's not in there that you didn't claim back
14 in ---

15 A. Sir, there are a lot of things that I said back
16 then that are not in that statement.

17 Q. Let me finish my question, ma'am.

18 It is not anywhere in your statement, your claim
19 that Muneer Deeb said to you that Kenneth Franks had been
20 killed before the news ever came out. It's not in there, is
21 it?

22 A. No, sir, it does not say that in the ---

23 Q. Let's examine that just for a minute.

24 You knew how important it was for the police to
25 have accurate information, didn't you?

1 A. I was 17 years old. I tried.

2 Q. Well, I am not asking you what your excuse is.

3 I'm just asking you some specific questions.

4 Even at 17 years old, you knew how important it
5 was for the police to have accurate information, didn't you?

6 A. Yes, sir.

7 Q. Even at 17 years old, you would know that if the
8 police had inaccurate information, they might arrest the
9 wrong person.

10 MR. LANE: Objection, Your Honor, it is all
11 speculation ---

12 BY MR. DeGUERIN:

13 Q. --- accuse the wrong person, you knew the
14 significance ---

15 MR. LANE: He is not paying attention, but I do
16 object to calling for pure speculation on the part of this
17 witness.

18 THE COURT: Sustained.

19 BY MR. DeGUERIN:

20 Q. Ma'am, are you saying that at the age of 17....

21 MR. LANE: You know, I am not getting an
22 opportunity to get my objection, so I thought that I would
23 stand until the question is finished so that I could lodge
24 my objection.

25 THE COURT: Go ahead and ask the question.

1 You may stand.

2 BY MR. DeGUERIN:

3 Q. Even at the age of 17, you would know the
4 significance of the police acting on wrong information or
5 inaccurate information, wouldn't you?

6 A. Yes, sir.

7 Q. Okay. So you wanted to be as accurate as possible
8 and as complete as possible and give every bit of
9 information that you had, right?

10 A. Yes, sir.

11 Q. Now, if, in fact, Muneer Deeb had talked about
12 Kenneth Franks being murdered before his body was even
13 found, that would be a startling revelation, wouldn't it?

14 A. Yes, sir.

15 Q. And yet, in the days and hours and whatever you
16 went through with Dennis Bayer and Ramon Salinas, trying to
17 be as accurate as possible, it never once was mentioned, was
18 it?

19 A. No, sir, it was never written down.

20 Q. Well, I take it by your answer it was never
21 written down, but you're trying to hint or suggest that it
22 was said by you to those officers and they just didn't write
23 it down. You are not trying to say that, are you, ma'am?

24 Ma'am?

25 I don't think that requires any thought, do you?

1 Are you trying to hint that something as startling
2 and as important as that was said by you and not written
3 down by two experienced officers?

4 Are you?

5 A. Yes, sir.

6 Q. Okay. The officers, in questioning you, asked you
7 specifically whether Mr. Deeb had said anything about the
8 murders at the lake, didn't they?

9 A. Yes, sir.

10 Q. In other words, in this session -- by the way,
11 were they polite to you?

12 A. No, sir.

13 Q. Okay. Well, were they mean to you?

14 A. Yes, sir.

15 Q. Well, did you decide not to give them all of the
16 information because they were mean to you?

17 A. No, sir.

18 Q. How -- over what period of time did your
19 questioning with Mr. Salinas and Mr. Bayer take place? Was
20 it over a several-day period?

21 A. Several different occasions, they called me into
22 their office, yes, sir.

23 Q. I am talking about the circumstances under which
24 you signed the -- what turned out to be an eight-page
25 written statement, partially -- most of it typewritten,

1 prepared by Mr. Bayer, and then containing two additional
2 pages, page and a half of your own handwriting.

3 That session or sessions that generated that
4 statement, when did -- what period of time did that take
5 place?

6 A. It was in two different meetings.

7 Q. All right. Over two different days or two
8 different meetings in one day?

9 A. Two different meetings on two different days, just
10 the day after.

11 Q. Okay. The questioning took place one day and then
12 you came back the next day and there was a prepared written
13 statement going over what you had said during that session
14 and you checked it over and read it and signed every single
15 page ---

16 A. Yes, sir.

17 Q. --- for accuracy and added some things to it?

18 A. Yes, sir.

19 Q. And you still have it there in front of you?

20 A. Yes, sir.

21 Q. Is it true that one of the things that you told
22 the officers in answer to their questions for whether Muneer
23 Deeb had ever said anything about the murders at the lake,
24 was, "The only thing I can remember that Lucky said was that
25 a day or two after the murders, he told me Kenneth, Gail's

1 boyfriend, got killed and I'm glad."

2 A. Yeah.

3 Q. Okay. Now, let's examine that for just a second.

4 You have told this jury, in answer to my question,
5 that you believe you told the officers that Muneer Deeb told
6 you about Kenneth Franks being dead before the bodies were
7 discovered.

8 A. Yes, sir.

9 Q. You agree, even as a 17-year-old, you would know
10 how significant that might be, right?

11 A. Yes, sir.

12 Q. And you are telling this jury that you believe
13 those two officers were corrupt?

14 A. No, sir, I did not say.

15 Q. And didn't put it in your written statement?

16 A. No, sir, I did not say that they were corrupt.

17 Q. Put down something that you didn't say?

18 A. No, sir, I did not say that they intentionally
19 withheld information.

20 Q. Left out something of such great significance that
21 you are called for the first time ten years after these
22 murders, to testify to it to a jury. Is that what you are
23 saying? They left something out so startling that Muneer
24 Deeb would say -- before the bodies were discovered, would
25 say, "They killed Kenneth Franks and I'm glad."

1 You are saying that they left it out?

2 A. Apparently they did, sir.

3 THE COURT: If you are moving to another subject,
4 let's talk a minute. I'm looking at the clock is what I am
5 thinking about.

6 (Following proceedings had at the bench:)

7 THE COURT: It is apparent to me you are not going
8 to finish this witness today. I don't want to interrupt you
9 at the wrong time. On the other hands, we are talking about
10 15 minutes.

11 MR. DeGUERIN: I may have something I can cover in
12 about five minutes and let me see -- I need to get my
13 thought straight just for a second.

14 THE COURT: Okay.

15 MR. DeGUERIN: Maybe I can cover that and then
16 we'll recess.

17 THE COURT: That's fine.

18 MR. DeGUERIN: But I am not through.

19 THE COURT: Oh, I know that. But I don't mind you
20 going into something else. I hated to interrupt you even
21 now.

22 MR. DeGUERIN: I was through with that.

23 THE COURT: I thought it was the right time to do
24 it.

25 (Following proceedings had in open court:)

1 BY MR. DeGUERIN:

2 Q. Let's very briefly talk about what your testimony
3 is to this jury about the time you say this happened. You
4 told this jury, unequivocally, that it happened about eleven
5 o'clock in the morning, or in the morning before you
6 finished your morning shift, the same morning that David had
7 come in late at night and had also come back and some
8 friends had come to the house and he had stayed up with
9 them, then he got you up to go to work. That is what you
10 have said, right?

11 A. Yes.

12 Q. What you have said before about a similar
13 conversation -- just not describing it the same way, but
14 about this conversation, was that it happened after six
15 o'clock one evening; isn't that right?

16 A. It was light outside.

17 Q. What?

18 A. It was light outside and I opened the morning
19 shift.

20 Q. Well, what you told the jury was that you got off
21 at two o'clock.

22 A. Uh-huh.

23 Q. You worked from 7:00 in the morning till two
24 o'clock and got off. And it was before that ---

25 A. Uh-huh.

1 Q. --- right?

2 But what you said before, under oath, was that it
3 wasn't on the morning shift; it was on the evening shift,
4 after you had gone back to work about six o'clock.

5 A. No, sir, I don't recall that.

6 Q. Wasn't that your testimony?

7 A. I don't recall that.

8 Q. Well, specifically, weren't you asked about this
9 conversation -- this is your answer: If I remember
10 correctly, he -- meaning David Spence -- did pick me up at
11 two o'clock and brought me back at 6:00 to work and I closed
12 that night.

13 Then a question: Did anything unusual occur when
14 you got back to the store at six o'clock on that day?

15 Your answer: To the best of my knowledge, that
16 was the day that Muneer Deeb came into the store and said
17 that they had killed the son-of-a-bitch.

18 Now ---

19 A. Where are you reading this from?

20 Q. I'm reading from your Grand Jury testimony on
21 November of 1983.

22 A. Okay.

23 Q. The point being the time, ma'am. Isn't it true
24 that under oath, at a time when -- if it was true, it should
25 have been a little bit more fresh in your memory, you said

1 A. Yes.

2 Q. And when -- were you asked the question: When you
3 first heard Deeb say anything about it, it was when you came
4 back to work at 6:00 o'clock after that morning?

5 A. I don't recall that.

6 Q. Possible that you did?

7 A. It's possible. I don't remember. I know that it
8 was light outside, and that Deeb and I were working the
9 store.

10 I now recall it as being the morning shift.

11 Q. Well, let's see about that. You now remember that
12 it was -- this conversation, if it took place, happened on
13 the morning shift. Is that your testimony?

14 A. Between seven and two.

15 Q. Well, in preparing for this trial, have you seen
16 your time card for that week that shows that you didn't even
17 work ---

18 MR. LANE: Objection, Your Honor.

19 BY MR. DeGUERIN:

20 Q. Have you seen your time card?

21 A. Sir, I worked that morning.

22 Q. Have you seen your time card for that week?

23 A. No, sir.

24 Q. Well, I'm a little curious as to how, ten years
25 later, you could change your version of when this

1 conversation took place to be in the morning as opposed to
2 in the afternoon.

3 A. Sir, that is how I'm recalling it. It has been
4 ten very long years. I may be remembering it wrong, but it
5 was the day that David came into the store and put the beer
6 on the back of my tab and I worked that morning. I opened
7 that morning and it was that day.

8 Q. You didn't work that afternoon, did you?

9 A. I don't recall whether I came back in or if I was
10 off or what, but I recall opening the store and I was there
11 until two.

12 Q. You didn't work that afternoon; that is, the
13 afternoon of July the 14th.

14 A. 14th. I know that I wouldn't have worked between
15 two and six, no.

16 Q. And you know that your time card would show that
17 you didn't work that afternoon, right?

18 A. Yes, it should.

19 Q. And so, your earlier claim that you heard this
20 conversation at 6:00 o'clock p.m. when you came back to
21 work, would have to be changed to be at a time when you were
22 at work, wouldn't it?

23 MR. LANE: Objection, Your Honor. There is no
24 time card in evidence, anyway. I object to him referring to
25 an exhibit. If he has got one ---

1 MR. DeGUERIN: Well, I do. Let's get it from the
2 court reporter's office.

3 THE COURT: Let's do that in the morning.

4 MR. DeGUERIN: All right.

5 THE COURT: Most of you folks parking down at
6 Tandy, y'all know about the subway and everything. Do you
7 kind of all go down there together? So, if it is dark when
8 you get out there, you need to be kind of cautious because
9 there have been some problems in the past. That is why I
10 start trying to get us loose from here about five.

11 So we will recess until 9:00 in the morning.
12 Please remember your instructions not to discuss the case or
13 watch anything on TV, read anything in the newspaper or
14 listen to the radio, and see you at 9:00 o'clock.

15 ---ooOoo---

16 (Court recessed at 5:05 p.m.)

17 ---ooOoo---

18 (Continuation of Witness Sterling contained in Excerpt of
19 Proceedings of December 8, 1992.)

20 ---ooOoo---

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24
25

1 STATE OF TEXAS |
2 COUNTY OF TARRANT |

3
4 I, Lucy Lopez, Official Court Reporter for the Criminal
5 District Court Number Four of Tarrant County, Texas, do
6 hereby certify that the foregoing 139 pages, numbered 1
7 through 139, constitute a true and correct transcription of
8 the excerpt of proceedings had from the Trial on Merits,
9 December 8, 1992, Testimony of Christine Juhl Sterling, in
10 the above-captioned cause; thereafter, reduced to
11 typewritten form by me and under my supervision.

12 I further certify that this transcription of the record
13 of the proceedings truly and correctly reflects the
14 exhibits, if any, admitted into evidence.

15 WITNESS MY OFFICIAL SIGNATURE on this the 8th day of
16 January, 1993

17
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