

1
2 your right hand.

3 (Whereupon, the witness was sworn.

4 THE COURT: Have a seat.

5 MR. BUTLER: Judge, if he wants to test her
6 qualifications as a reputation witness, I think the
7 questions are up to him.

8 THE COURT: All right.

9 MR. HUNT: Okay.

10 MELISSA SIMS

11 called as a witness, and having been first sworn, testified as
12 follows, to-wit:

13 VOIR DIRE EXAMINATION
14 (OUT OF THE PRESENCE OF THE JURY)

15 BY MR. HUNT:

16 Q Melissa, state your name for the record, please.

17 A Melissa Sims.

18 Q How are you employed?

19 A Detective, City of Waco Police Department.

20 Q Okay. And how long have you been employed in that
21 capacity?

22 A Seven years.

23 Q Melissa, it's my understanding that the State intends to
24 call you as a general character and reputation witness,
25 in reference to David Wayne Spence. In that regard, I
would ask if you are familiar with the general reputation

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of David Wayne Spence in the community in which he resides? And if you are familiar with it, what it's based on?

A Yes. I am familiar with his reputation in the community. It's not been good.

O And what is your familiarity based on, Melissa?

A His past criminal history.

O Okay. It's based on his past criminal history, as opposed to people you have talked to? Or are you talking about things you have talked to with other people?

A Past offense reports that have been reported to the Police Department, in reference to Mr. Spence, and convictions that he has had.

O Okay. So, you're saying that, based on his past convictions and offense reports, as opposed to your conversations with other people, is that correct?

A No. I have talked, in reference to a case back in 1982, that he was involved in.

O Okay. What case is that?

A The sexual abuse case.

O Okay. You talked to witnesses about that?

A Yes, sir.

O Is that right?

A Yes, sir.

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2 Q Now, you talked to witnesses about the facts of the
3 offense, as opposed to his reputation, is that correct?

4 A Basically both. When you're doing an investigation, you
5 talk about the man that you're talking about.

6 Q Okay.

7 A You know, his personality, and things.

8 Q Okay. You talked to them about his personality? Or did
9 you talk about his general reputation?

10 A Back in 1982, about the offense, about what type person
11 David was.

12 Q Okay. So, you talked to them about what type of person
13 he was --

14 A Uh-huh.

15 Q -- as opposed to his general reputation?

16 A To me, it's the same thing.

17 Q Okay. And your testimony would be based, then, on conver-
18 sations on your examination of his prior criminal history,
19 and your conversations with one or more witnesses rela-
20 tive to what kind of person David was, is that correct?

21 A Yes, sir.

22 Q Okay. And can you tell me who those people were and
23 when you talked to them?

24 A Back in September of 1982, Darwin Pack.

25 Q Okay. Who was the victim of that offense?

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2 A Who was the victim of the sexual abuse case.

3 O Okay.

4 A And, also, I personally interviewed a Jim -- let me see
5 if I can say it -- Guetreaous -- Gueterez -- who was the

6 O Guttilla?

7 A Guttilla. Okay.

8 O Okay.

9 A Who was involved.

10 O Okay. And which one of those people did you talk to
11 about what kind of person David was?

12 A I extensively talked with Jim.

13 O Okay.

14 A Detective Salinas talked with Melendez.

15 O Okay. Other than Jim and Pack, did you talk to anybody
16 else about what kind of a person David was?

17 A No.

18 O Okay. And did you talk to Pack about what kind of a
19 person David was, or did you only talk to Guttilla?
20 I'm sorry. Just to make that clear, I think I got
21 confused. Did you talk to Pack about what kind of person
22 David was?

23 A No.

24 O Then, the one person you talked --

25 A Mainly with Jim.

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2 O Okay. So, you talked to him about what kind of a person
3 he was. Did you ever ask him what other people say about
4 David in the community?

5 A He was afraid of David.

6 O Okay. You didn't answer my question, though, Melissa.
7 Did you ask him about what other people say about David
8 in the community? Specifically, do you remember asking
9 about that?

10 A Specifically the question. See, now --

11 Q My question, specifically, is, did you ever specifically
12 talk to Jim Guttilla about what other people in the
13 community said about David?

14 A I would say yes.

15 O Do you remember that? Or would you just say yes?

16 A Yes.

17 O What was --

18 A I did ask him.

19 O Okay. What was your question to Jim, and what was his
20 response?

21 A About what he knew about Mr. Spence.

22 O Okay.

23 A And about how Mr. Spence was thought of. You know, what
24 Mr. Spence's reputation was.

25 O You talked specifically to one person, Jim Guttilla,

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about that?

A Jim. Uh-huh. What he knew about David Spence.

O Okay.

A As far as David Spence's character, or who his associations were.

O Okay.

MR. HUNT: We pass the witness, Your Honor.

MR. BUTLER: We don't have any questions, Judge.

THE COURT: You may step down.

MR. HUNT: Your Honor, at this time, we would move the Court to exclude the testimony of Melissa Sims, based on the fact that she has talked to one person about the general reputation of the Defendant, and that her recollection of that is relatively confused, and that that was based on that other witness' hearsay, which is in violation of the Eighth Amendment and the Sixth Amendment of the United States, as applied by the Fourteenth Amendment of the United States Constitution.

THE COURT: Overruled.

What's the next one?

MR. BUTLER: Ramon Salinas.

THE COURT: Ramon Salinas,

Raise your right hand.

(Whereupon, the witness was sworn.

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