

PAGE COUNT OF 50 PAGES

Q After the fire bomb was thrown, what did you notice about Mike's Grocery, if anything?

A It was burning.

Q Then what, if anything, did you do?

A Then, I had a small can of gasoline and poured it down to the door.

Q To the door, where?

A Of Mike's.

Q Then what, if anything, did you do?

A Then Chavis called me across the street.

Q What did he say to you at that time, if anything?

A He told me to "Let's go back to the church."

Q Where did the others go, if you know?

A He told them to get into position.

Q Did they have weapons with them at this time?

A Yes, sir.

Q Did you have a weapon with you?

A Yes, sir.

Q Did the Defendant Chavis have a weapon with him?

A Yes, sir.

Q Did you go back to the church?

A Yes, sir.

Q With whom?

A Chavis.

Q And how long did you stay at the church?

A I'll say around ten minutes.

Q What, if anything, did you do then?

A Then we got word to come back because those people's houses caught on fire.

Q Which people's houses?

A The people next to Mike's Grocery.

Q Who went back with you?

A Myself and Chavis.

Q What, if anything, did you do at this time?

A Whenever we went back, got into the alley behind those houses there, we did the shooting at the police.

Q Who did?

A Myself, Chavis and the rest of them.

Mr. Balance: OBJECTION

The Court: SUSTAINED

Q Were there any firemen present at that time?

A Yes, sir.

Q Any police officers?

A Yes, sir.

Q Was the fire at Mike's put out at that time, do you know?

A No, sir.

Q Was the building itself burning?

A Yes, sir.

Q These fire bombs you referred to, what did they consist of?

A Gasoline and rags.

Q In what?

A In soda bottles, wine bottles.

Q Were these fire bombs ignited or lit or lighted before they were thrown

into the building?

A Yes, sir.

Q I have no further questions.

* * * * *

CROSS EXAMINATION (By Mr. Ferguson)

Q What night was this?

A This was on the 6th.

Q Was that Friday or Saturday?

A Saturday night.

Q You say that you all went back to the church immediately after you had been outside.

A No, sir. I said myself and Chavis went back to the church.

Q Do you know when I am talking about?

A Yes, sir, on Saturday night when Mike's was burned.

Q Before this happened, you say that you all had been at the barricade at Sixth and Nun, is that correct?

A Yes, sir.

Q Did everybody who was there at the barricade come back to the church?

A Yes, sir.

Q You say that when you got back to the church, Chavis made some statements to you and several other people.

A Yes, sir.

Q How many people were in the church at that time?

A I couldn't really say.

Q Approximately.

A Well, I still couldn't give any - there were many in the church and some

outside; some in the basement in the church and some upstairs in the church in the bed.

Q Was the church full?

A Yes, sir.

Q The church was full.

A Yes, sir.

Q Where were you in the church, when you say Chavis made these statements?

A We was up there by the pulpit.

Q Up by the pulpit.

A Right.

Q How many people were gathered up by the pulpit?

A I couldn't really say, some were laying down by his feet, some standing behind and some standing in front.

Q Were there more than 15 people up there?

A There wasn't more than 15 laying down.

Q I'm talking about gathered around the pulpit altogether.

A I couldn't really say.

Q Now, when Chavis spoke, or when you say he spoke, did he speak in a loud voice?

A He didn't have to speak too loud, we use a microphone.

Q He was using a microphone, is that correct?

A Yes, sir.

Q Do you know where the speakers are located?

A Yes, sir.

Q Where?

A The speakers were located then on the inside of the church.

Q On the inside of the church.

A Right.

Q So, if someone speaks into the microphone their voice can be heard all over the church, is that right?

A Yes, sir.

Q When you say he made the statement, "We have to show these crackers we mean business," he made this statement through the P.A. system then, is that right?

A Yes, sir.

Q Did he make the statement through the P. A. system that Mike's Grocery was owned by a white man?

A Yes, sir.

Q And what you are saying is that everything he said to you about burning Mike's Grocery was said over the P. A. system, is that correct?

A Yes, sir.

Q Did you say anything in response to what he said?

A No, sir.

Q Did anyone you recall say anything in response to what he said?

Mr. Stroud: OBJECTION as to anyone.

Q Did anyone say anything?

Mr. Stroud: OBJECTION to anyone.

Mr. Hunoval: I'll object to that also.

Q Just answer this question: Was any response made to anything he said?
Was a response made?

A Yes, sir.

Q You didn't make any response is that correct?

A No, sir. Yes, sir. That is correct. I didn't make any response.

Q Where was Connie Tindall standing at that time? Or where was he located at the church?

A He was standing up there where the choir was.

Q Where was Willie Vereen?

A He was standing up there talking to some girl, I didn't know who she was.

Q He was talking to a girl when the statements were being made?

A He was talking to the girl whenever he started making them.

Q You are saying Willie Vereen was talking to a girl at the time Chavis was making these statements?

A No, sir, he wasn't talking to her whenever he was making the statements. When he continued, he stopped because all of us was listening to Chavis.

Q Do you know who the girl was he was talking to?

A No, sir.

Q Were any names called by Chavis in the church?

A No, sir.

Q In other words, he didn't tell you he was talking to you.

A He just told us what we had to do.

Q When you say "told us", you are talking about everybody in the church.

A Right.

Q He never told you what to do individually.

A Yes, sir.

Q Over the microphone?

A No, sir.

Q He told you there at the church what to do?

A Yes, sir.

Q You say that he made some statements to you that he didn't make over the microphone?

A The only things he said to me that he made over - - -

Mr. Stroud: Just answer the question yes or no.

Mr. Ferguson: OBJECT to the Solicitor interfering, Your Honor.

The Court: All right, go ahead.

A The only ones he said to me he made over the microphone that "We are really going to show them crackers we mean business" and that was all.

Q That's the only statement he made over the microphone?

A He told me after he made it over the mike when we was talking.

Q So he did make a statement "We'll show these crackers we mean business." He didn't make that over the microphone.

A You asked me, did he make a statement after he had made it over the microphone, and you asked me, did he make any statement to me that he had made over the mike.

Q You talked to him after he talked on the microphone.

A Yes, sir.

Q What did you say to him?

A He told me- - -

Q What did you say to him?

A He told me- - -

Q What did you say to him, was my question.

A I told him, all I said was "Okay."

Q That's all you said was "Okay"?

A Right.

Q At the time he made the statement to you, was there anyone else

listening?

A Not that I know about.

Q Just you and him?

A Yes.

Q Where were you then?

A We was standing on the porch of the church at that time.

Q You were standing on the porch of the church?

A Right.

Q Everyone else was inside?

A Right.

Q How long was this after the statement was made on the microphone?

A Whenever he finished then he told me what he wanted me to do, then he came back in the church and I told him to come on and we went to the back of the church.

Q Let me see if I can understand the sequence of events. You say he made some statements on the microphone?

A Right.

Q And right after he made that, he took you on the porch of the church?

A Right.

Q Just you and him?

A Right.

Q And told you what to do?

A Right.

Q Everybody else was inside of the church at this time?

A Right. Everybody else was getting their things together to go out - - -

Q Everybody was getting their things?

- A I wouldn't say everyone, but everyone who was large enough to go out there.
- Q How many people were large enough to go out there?
- A I can't really say. There were so many of them there and so many of them were little children.
- Q Do you know how many came outside?
- A I can't really say for sure.
- Q Now, did you make any statement to Connie Tindall?
- A No, I didn't.
- Q Did you make any statement to Willie Vereen?
- A No, sir.
- Q When Chavis came back inside from the porch, did you come back inside?
- A Yes, sir.
- Q And the only thing he said when he went back inside was "Come on", is that right?
- A Right.
- Q Before he made the statements on the microphone, did he make any statements to anyone?
- A The only one he had made was when earlier he said, we was going to get that cracker our of that building.
- Q He made that on the microphone?
- A No, sir.
- Q He hadn't said anything else on the microphone?
- A No, sir, not until we came back.
- Q Did Chavis hold any conversation with Connie Tindall when he came

back in the church?

A No, sir.

Q Did he hold any conversation with Willie Vereen when he came back in the church?

A No, sir.

Q He didn't hold any individual conversation with anyone when he came back in the church, right?

A Right.

Q So, you were the only one he talked to individually after he made his statement on the microphone, is that right?

A Yes, sir.

Q Was there any special reason he took you outside that you know of?

A He told me that - he took me and walked up to Sixth Street and we looked down Sixth Street, then we came back. He told me to come on and then we went on to the back of the church and went behind the church and started passing out the fire bombs.

Q When you went out on the porch, you went up Sixth Street, is that right?

A Right. He was telling me he wanted me to stand guard to be the lookout man to see the coast was clear.

Q Did you stand guard?

A Well, what I meant was, just walk up there and check it out. Me and him walked up there and checked it out and then we came back to the church.

Q When did he tell you he wanted you to stand guard and be the lookout man?

A Whenever he called me outside of the church.

Q Whenever he called you outside of the church. When did he call you

outside of the church?

A After he got through making his statements.

Q Did you walk out of the church and walk up Sixth Street?

A Right.

Q And he told you then he wanted you to be the lookout man, is that right?

A Right.

Q Did he leave you at Sixth Street to be the lookout man?

A No, sir, what he was talking about was he wanted me to check out before the rest of them come in with the fire bombs.

Q Wanted you to check out what? Sixth Street?

A Right. Mike's Grocery.

Q Go up to the diagram, if you would. Where is the church?

A The church would be right here.

Q Now, where did you all go when you left the church? You and Chavis?

A Right here.

Q Where is Mike's Grocery?

A Mike's Grocery, I'll say, is right here.

Q All right, you went up to that corner. What did you do while you were at that corner?

A Me and him stood there and I looked down the street, down here, to see if there was any cops whatsoever down this way. Then we went back to the church and told them to come on and went around to the back of the church.

Q How far down Sixth Street could you see?

A Well, not too far.

Q You wouldn't have been able to see any cops if they had been out there,

would you?

A Not if they had their lights out.

Q How far down Nun Street?

A You couldn't see down that way.

Q You couldn't see at all down that way?

A No, sir.

Q You couldn't have seen any cops if they had been down there, is that right?

A No.

Q It was blacked out - all the street lights were out, weren't they?

A Yes, sir, but down Sixth Street, you could look down Sixth Street and see Mike's Grocery from Sixth Street, from the position we were standing, all the way down there to Ann.

Q You could see all the way down the block?

A Yes because there was a street light right at the corner.

Q Was that street light on?

A Yes, sir.

Q Were any other street lights on?

A The only street lights that was on was the one at the corner of Mike's and the one down towards Fifth Street.

Q How long did you all stay up there at the corner?

A I'd say around two or three minutes.

Q Anyone else come up to the corner while you were there?

A No, sir.

Q When were you supposed to be the lookout man?

A Well, me and him both were the lookout man, like, because me and him

both went to check out looking down Sixth Street and me and him and Steve went down to check Ann Street.

Q Steve who?

A Steve Corbett.

Q When did you, Steve and Ben Chavis go down Ann Street?

A Well, we went down Ann Street right after we came back to the church and told the rest of them "Come on, let's go" and passed out the fire bombs.

Q Now, you didn't mention Steve's name as being one who went back to the church a few moments ago, did he go back to the church with you?

A Steve was already out there.

Q Already out where?

A In back of the church.

Q When did he go out there?

A I can't say whenever he went out, but he was already there.

Q Did you see him inside the church?

A Yes, I saw him in there one time.

Q When?

A The earlier part.

Q The earlier part?

A Yes.

Q What are you referring to as "earlier"?

A I'd say right around dusk dark.

Q Dusk dark?

A Yes.

Q Six-thirty or seven o'clock, somewhere around there?

A Yes, sir.

Q You didn't see him around the church any more after that?

A No, sir.

Q He wasn't in the church any time Ben Chavis was making statements over the microphone?

Mr. Stroud: If it please the court, Steve Corbett is not charged. As a matter of fact, he is deceased.

The Court: Sustained.

Q Now, when you and Reverend Chavis came back to the church, how long did you stay inside the church before going back outside?

A We didn't stay in the church no time because as soon as we got back, he told them to come on.

Q Did both you and him tell them to come on?

A No. He said it. He told them to come on.

Q He just walked into the church and said "Come on" and kept walking on to the back door.

A We walked in there and he told them to come on and then we walked back out the church.

Q Did you walk out the same door you went in?

A Right.

Q And then went around to the back of the church?

A Right.

Q You say you and Reverend Chavis passed out the fire bombs?

A Right.

Q How many fire bombs were there - about?

A I'd say there was 18 or more.

Q Had you put any of them back there?

A Yes, sir.

Q How many did you put back there?

A I won't really say.

Q Why won't you really say?

A Because I don't remember how many I had made and put back there.

Q When did you make them and put them back there?

A The early part of that day. We were back there and we made some fire bombs.

Q The early part of the day. Was that before night fall?

A The earlier part of the day.

Q How many people altogether were gathered in back of the church?

A I couldn't really say.

Q You don't know who was back there?

A I don't know all of them.

Q You don't know how many?

A No, sir, I couldn't really say.

Q Was it dark back there?

A Yes, only from the light that we had back out there.

Q Excuse me?

A From the light we had there from Reverend Templeton's house.

Q You are saying there was a light from Reverend Templeton's house shining back there?

A Right.

Q How long did you say you stayed in back of the church?

A Until we passed out the fire bombs.

Q How long did that take?

A I'd say around five minutes.

Q When you left the back of the church, did everybody go in the same direction?

A Yes, sir.

Q Everybody in back of the church left and went in the same direction?

A Everybody left and went to the path and from there we splitted up.

Q Point out on the diagram where the path goes.

A This right here would be Reverend Templeton's drive way; this would be his house and the driveway would go from back of the church and come right along here on the side, behind the house, and Mike's would be right here.

Q What does that line indicate? The path or the driveway?

A The path. This is the driveway, it divided the church and the house.

Q Everybody came up to that- - -

A Right. Because there are houses sitting all along down and the path comes behind a house.

Q What did you do after you got to the end of the path on the street?

A Myself and Chavis went across the street.

Q Just you and Chavis?

A And Steve.

Q How many fire bombs did you have with you at that time?

A At that time I only had one.

Q What did you do when you went across the street?

A We went across the street and was looking to see if there was any cops whatsoever in the area right around Mike's at this time.

Q Did you see any cops?

A No, sir.

Q Then what did you do?

A We came back and I started throwing the fire bombs in there and all of us started throwing fire bombs into Mike's.

Q Did you have any conversation with anyone when you went back across the street?

A Yes, sir. Whenever Chavis called me back across the street I had a conversation with him.

Q Was that before or after you threw the fire bombs?

A After.

Q Before you threw the fire bomb did you have any conversation with anybody?

A Yes, sir.

Q Who did you have a conversation with?

A Father Jones.

Q Where was Father Jones?

A He was standing next to the church.

Q Next to what church?

A St. Marys.

Q Where would that be on the diagram? What street is St. Marys on?

A St. Marys is on Ann and Fifth.

Q Ann and Fifth?

A Like, sitting on the corner of Ann, but you can go to it through Fifth Street.

Q Did anyone else have any talks with Father Jones?

A No, sir.

Q When was it you had the conversation with Father Jones?

A Just before we burned Mike's.

Q Well, you said that when you came out to the end of the path, you, Chavis and Corbett went down Ann Street, is that correct?

A Yes.

Q Is that when you saw Father Jones?

A Yes, sir.

Q Did Father Jones talk with you, Chavis and Corbett?

A He was talking to me but he didn't really know who he was talking to.

Q What do you mean?

A He really didn't know, he couldn't really say which one he was talking to because we were down there and because we were hollering.

Q You were hollering?

A Yes, sir.

Q Who was hollering?

A Myself and Father Jones.

Q Who were you hollering at?

A Father Jones.

Q You and Father Jones were hollering at Father Jones?

A You asked me who I was hollering at.

Q You mean you and Father Jones were hollering.

A Right, back and forth because we were not standing at a distance where we could talk.

Q How far were you standing from Father Jones?

A I would say a block.

Q You were standing a block from Father Jones.

A Yes, sir.

A I threw mine, but I didn't throw all three of mine at that time. I just threw the first one and I had these two and I waited until the rest of them threw theirs and then I threw the rest of them.

Q So, altogether how many fire bombs were thrown in there?

A I'll say eight.

Q And it was after all eight of these fire bombs were thrown in there you went up to the door with a can of gas, is that right?

A Yes, sir.

Q What size can was it?

A I'll say it was a 2 1/2 gallon can.

Q Was it full?

A No, sir.

Q Did you purchase the gas that was in the can?

A In that can?

Q Yes.

A I had it.

Q You had purchased it?

A No, sir.

Q Did you have more than one can?

A I just had that one can.

Q You were sort of a leader in all this, weren't you?

A No, sir.

Q You passed out fire bombs to other people.

A I wouldn't call that sort of a leader, just doing as you're told.

Q You were just doing as you were told?

A Right.

Q What did you say to Father Jones?

Mr. Stroud: OBJECTION. This has no relevance to this hearing. This is a preliminary hearing. He can certainly cross examine him about anything he testified on direct examination. He did not testify about Father Jones on direct examination

Mr. Ferguson: He volunteered the information about Father Jones.

Mr. Stroud: Nevertheless- - -

The Court: I'll hear what you have to say.

(Counsel approaches bench)

The Court: SUSTAINED

(Recess for lunch from 12:00 until 1:30 P.M.)

Defendants brought back to courtroom at 1:40 P.M.

Allen Hall back on stand.

(Counsel approaches bench)

Q When did you obtain the three fire bombs you stated you threw?

Mr. Stroud: OBJECTION, Your Honor, he already stated that.

The Court: I'll let him state it again.

A I carried one with me and a can of gas.

Q So you only had one fire bomb?

A I got the other two from Willie Earl.

Q When did you get those?

A Whenever we were throwing the fire bombs.

Q So Willie Earl never threw any fire bombs.

A Not at that time.

Q You threw your three and you don't know who else threw fire bombs, do you?

Q When you threw the first bomb you were doing as you were told?

A Whenever I threw them all, I was just doing as I was told.

Q And when you went up there and poured the gas on the house or building, you were just doing as you were told?

A Yes, sir, when I poured it in front of the door.

Q You usually do what you are told, is that right?

A Right.

Mr. Stroud: OBJECTION to what he usually does.

Q Were you doing what you were told by getting up on the witness stand and saying all the things you said?

Mr. Stroud: OBJECTION

A No, sir.

Mr. Stroud: I'll withdraw the objection.

Q You said you had known Reverend Chavis only one day before this incident occurred, is that right?

A Yes, sir.

Q And you were doing everything he told you to do.

A Yes, sir.

Q You never had a thought of your own.

A Yes, sir, I had some thoughts of my own.

Q But they didn't have anything to do with what you did?

A No, sir, because all of us had thoughts of our own, but we didn't use them.

Q How long had you known Willie Vereen?

A I had seen him on Castle Street.

Q How long had you known him? Did you know him before that night?

A Yes, sir.

Q How long did you know him?

A I'll say about a year.

Q A year. Did you ever have any conversation with him?

A We had talked on Castle Street.

Q How long had you known Connie Tindall?

A I just knew Connie at this incident.

Q Did you ever voice any objection to anything that was happening?

A No, sir.

Q Did you ever say to anybody, "I don't want to do this."?

A No, sir.

Q That's all.

* * * * *

CROSS EXAMINATION (By Mr. Harmon)

Q What, if anything, did Marvin Patrick say to you on this occasion?

A Well, whenever we came back- - - You mean this night that happened?

Q Yes.

A He didn't say anything to me on that night.

Q What did James McKoy say to you?

A Nothing.

Q Nothing?

A Nothing, as I can remember.

Q Did you say anything to either of them?

A Nothing that I can remember.

Q I believe you stated there were eight fire bombs thrown in all, is that right?

A Yes, sir.

Q You stated you threw the first fire bomb, is that correct?

A Yes, sir.

Q Then you got two fire bombs from Willie Vereen and you threw them.

A Yes.

Q And you say there were some more fire bombs. Did you throw some more?

A I threw my two I got from Willie Earl, which made three fire bombs with the one I had. That was all the fire bombs I threw.

Q As a matter of fact, you threw the first three fire bombs.

A No, sir. I said that I threw the first fire bomb and then I got two from Willie Earl and when the rest got finished, I finished throwing those two and half a can of gas.

Q How was it you were the person to throw the first fire bomb?

A Really, like, it wasn't any particular who throwed the first fire bomb.

Q How did it happen that you were the one to throw the first one?

A For one thing, because in a way we were the first ones that came up to the church, I mean to the store.

Q When you say "we", you actually mean "I". You were the first one to get to the store.

A Myself, Chavis and Steve.

Q Are you saying Steve threw the first fire bomb?

A No, sir, you are asking me why I was the first one. I'm telling you about me being the first one. Myself, Chavis and Steve, about us going up there for the watch out. I already had mine. I was going up to the watch out. Naturally, mine would be there before theirs was and I

would be the first one.

Q Did Steve Corbett have any fire bombs?

A No, sir.

Q In that first group, you were the only one with a fire bomb?

A In that first group? All of us came as a group together but they stayed across the street in the path.

Q What I mean is, of the group going up to the store first, you were the only one with a fire bomb?

A Right.

Q How many other people did you see throw fire bombs besides yourself?

A Myself, Tindall, Scarface, Chili, Bun and that was it because Willie didn't throw none.

Q How come you threw Willie Earl's fire bombs? Did you ask him for them?

A The reason I throwed his was because he had to go between the store and the alley.

Q How many fire bombs did you say Marvin Patrick had?

A I'd say he had two.

Q Are you saying he threw two?

A Yes, sir.

Q How about James McKoy?

A I'll say he had two.

Q He threw two?

A Two, yes.

Q How about Connie Tindall? How many did he throw?

A Connie had one.

Q Anyone else throw any?

A No, sir.

Q Didn't you say some other person threw some?

A I said Chili, Connie, Bun and myself because I threw Willie Ear's two.

Q Didn't you say Jacobs threw some?

A That's Scarface.

Q How many did he throw?

A He had one.

Q When you count up the numbers you just gave, what does that total come up to?

A Nine.

Q How many? So you are now saying there were nine fire bombs thrown.

A Yes, sir. - With mine. The one I had it makes nine.

Q When you first said eight, you didn't include the one you had?

A I included mine but I didn't include his one.

Q Whose?

A Scarface.

Q You just now included his?

A I said I had not included his one because to me - - -

Q He didn't throw one?

Mr. Stroud: OBJECTION Let him finish his answer.

A Because like the way I see it, he didn't have nothing but one and the rest of us had two.

Q Now, when you gave your first statement to the officers back in May, did you remember all these details then?

A Yes, sir.

Q So, all these details will be in your first written statement, is that right?

A I wouldn't say everything, all of it, would be in my first one.

Q What wouldn't be in it?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q I have no further questions.

* * * * *

CROSS EXAMINATION (By Mr. Balance)

Q Mr. Hall, when you came back from across the street, having gone to the store which you say was fire bombed, how far away from the store did you go before you threw your first fire bomb?

A I'd say standing right there to the store, right down the sidewalk.

Q In relation to the store, were you on the same side of the street as the store or were you across the street?

A We were on the same side.

Q Tell me who "we" includes.

A All of us who threw fire bombs.

Q Were you all standing in the same group?

A Yes, sir.

Q Earlier in the day you told us after you went down the path you all split up. Who were you saying split up?

A All of them who was there. Like I said, I don't know them. The rest of them, they splitted up and took their places. So, I can't really say where they were at that time.

Q Are you saying the people you have named as throwing the bombs did not

split up?

A No, sir, they did not split up.

Q They all remained in a group?

A Right.

Q You and Chavis and another gentleman were across the street, Steve I believe, did you ever come back across the street?

A Yes, sir.

Q When did you ever go back across the street again?

A We went back across the street whenever I was going back to the church.

Q Well, now, to follow your story, you first went across the street, I believe you testified, to check out the store area, is that right?

A Right.

Q Then after you did that where did you go?

A After I did that, we came back.

Q Came back where?

A To the store.

Q You were already at the store.

A It is in front of the store where we throwed them at. Then we were on the side of the store.

Q Were you on Sixth Street?

A No, we were on Ann.

Q Ann Street side.

A Right.

Q Where did you come back to?

A We came back to Sixth Street.

Q This is the three people you say were with you at that time.

A Yes.

Q When you came back to Sixth Street what did you do then?

A The others came back across the street. Chavis went across the street.

Q Went across the street where?

A Sixth Street.

Q Do you know where he went?

A He was still on Sixth Street but he just went across.

Q Were you looking at him at this time, or were you getting ready to throw the fire bomb?

Mr. Stroud: OBJECTION Your Honor, he isn't representing Mr. Chavis.

Mr. Balance: If it please the court, I'm trying to find out what this man knows and doesn't know. If he was looking at Ben Chavis, he couldn't see something else. If he is looking at something else then he can't see Ben Chavis.

The Court: OVERRULED

Q Were you watching Ben Chavis at that time?

A Yes, sir, whenever we came back, he went on across the street.

Q Why were you watching him?

A Well, I didn't say I was watching him.

Q You just said you were watching him.

Mr. Stroud: OBJECTION

The Court: Let him finish, go ahead.

A Like, if you are watching somebody you just keep on looking for them to do something to see what they are going to do. Really, like, I was just looking at him whenever he went back across the street.

Q Why were you looking at him?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Were you watching Jerry Jacobs:

A Yes, sir.

Q Why were you watching him?

A Well, one thing- - -

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Mr. Balance: Your Honor, this man is testifying what this man did. I would like to know for what reason, if any, he was watching him. If he had a reason to detail whatever he was doing, I feel I would like to know that. It maybe that he was a paid informer out there to see what everybody was doing. I don't know what his reasons were, but I certainly would like to know. I think the court needs to know it.

Mr. Stroud: Again, I reiterate this is a preliminary hearing, it is not a trial. He will have a right to cross examine at the Superior Court rial.

Mr. Balance: I think the State seeks to have this witness come on to keep us in the dark as to certain portions of what happened that night. We don't need to know half and not know the other half. I think we have the right to know and I think the court has a right to know. I don't think the State has the right to know what happened out there and keep us from knowing that. Whether it helps the State and hurts us or helps us and hurts the State, I think we need to know all the facts and circumstances. That's all we're trying to find out.

The Court: As to why he was watching, I'm still going to sustain that.

Q You say you were watching Jerry Jacobs.

A Yes, sir.

Q Were you watching the other four people you named - or other three people?

A Yes, sir.

Q When you were throwing your fire bomb were you looking at the store or looking away from it?

A Whenever I threw mine, I was looking at the store.

Q Do you know what happened to the one you threw?

A Yes, sir.

Q What happened to it?

A It went into the store.

Q What happened to it when it went into the store?

A It burst.

Q What happened then?

A After it burst, it started burning.

Q It started burning. Why did you feel it necessary to throw two more then.

Mr. Stroud: OBJECTION

Mr. Balance: I think it is relevant, Your Honor.

The Court: OVERRULED

Q Why did you think it was necessary to throw two additional fire bombs?

A The reason we - - -

Q I'm talking about you not we. Why did you feel it necessary to throw two more?

A Well, number one because I know for a fact that as soon as the fire did go, I might make it back to the church or might not.

Q What has that got to do with the fire bombs?

A Well, like, if they catch fire before throwing them, they might burst.

Q You were trying to get rid of the other two when you threw them, is that right?

A The other two were carried there and I was taking Willie Earl's place because he went somewhere else.

Q Why did you pour the gasoline in front of the store? Wasn't the store burning at that time?

A Yes.

Q Why did you feel it necessary to pour the gasoline on it?

Mr. Stroud: I don't think it is relevant.

The Court: SUSTAINED

Q What did you do with the can you had when you poured the gas- -

Mr. Stroud: OBJECTION

The Court: OVERRULED Go ahead.

A Left the can sitting there.

Q Sitting at the store? Have you seen the can since that time?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Now, you said there were several people, I believe, that went over there with you, is that correct? Just to refresh my recollection and yours, there was a group of people who went over there, is that what you testified?

A Yes, sir.

Q Do you know how many there were in all?

A That went over to the store?

Q Yes.

A There was myself, Chavis, Willie Earl, Connie Tindall, Chili and Scarface.

Q How many is that?

A Six. And Steve makes seven.

Q All right, now, how many other people were there that went somewhere else?

A I couldn't really say.

Q Why can't you say that?

A Because I didn't count how many went to the other places.

Q Why did you count how many went to this place?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Did you count the number who went to this place?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q When did you first find out it was six that went to the store?

A I know it was six because all of us were there.

Q Did you have any rank at that time?

A No, sir.

Q You left the church, I believe, before you went over to the store in question, is that right?

A Yes, sir.

Q What time did you go to the church on the morning of February 6th, if in fact you did go?

Mr. Stroud: OBJECTION

The Court: State your question again, please.

Q I'm asking him what time he went to the church that morning, Your Honor.

The Court: OVERRULED

A Are you talking about that Friday morning?

Q I'm talking about the morning of the 6th - whatever it was, Friday or Saturday.

A The morning of the 6th I was at the church on that day. I was there all that day.

Q Did you stay there at the church Friday night, the night before the 6th?

A Yes.

Q You did. Did you stay there the night before that?

A No, sir.

Q Did you have a home in Wilmington at that time? Where were you living?

A 5515 Market Street.

Q Who were you living with?

A Mrs. Lena Hall. (3)

Q What was she in relation to you?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Were you working at that time? Have a job?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Where are you living now?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q You said you only had known Ben Chavis for one day, I believe, what reason, if any, were you at the church?

Mr. Stroud: OBJECTION

The Court: OVERRULED

A Well, I was at the church because I, like, they had been telling me so much about this Ben Chavis.

Q Who is "they"?

A Friends.

Q What friends?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q You had not been to the church before you heard Ben Chavis was there?

A No.

Q You went there on the 4th. You didn't see him that day?

A I saw him the same day I went down there.

Q What day was that?

A On a Friday.

Q What date?

A The 5th.

Q That was the first time you went down there was Friday the 5th of February, 1971?

A Right.

Q You hadn't been to the church before this?

A No.

Q How far did you live from the church?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q How did you get to the church?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q And the only purpose, you say, for going down there was to see who Ben Chavis was?

A To see what he was rapping about.

Q Going to see if he was the Messiah?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q You wanted to see what he was rapping about, did you say?

A Right.

Q You had been told he was rapping.

A Right.

Q What caused you to stay overnight when you went down there?

Mr. Stroud: OBJECTION I don't think it is relevant.

Mr. Balance: I think it is very relevant, Your Honor. If this man is going to testify as he has in regard to the circumstances and facts growing out of their leaving the church on the 6th. I certainly think it is important if he stayed down there on the 5th, it is important we know what was going on down there.

Mr. Stroud: If it please the Court, again I state this is only a preliminary hearing.

The Court: SUSTAINED. Go ahead.

Q Did you have anything to eat on the 6th?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Are you married, Mr. Hall?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Do you have a girl friend?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q When did you drop out of school?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q When did you return from New York?

Mr. Stroud: OBJECTION

The Court: OVERRULED

A I came back from New York in April.

Q Was that after you got arrested in New York?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Had you been tried on that charge yet?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q When you came back from New York, did you go down to the church at that time?

Mr. Stroud: OBJECTION

The Court: OVERRULED

Mr. Stroud: He testified the first time he went to the church was on the 5th.

He testified to that on his cross examination.

Q How long did you stay in New York?

A I left there- - -

Mr. Stroud: Your Honor, I object to this. All this has come out on cross examination in the previous case.

The Court: I believe we did agree to try to avoid repetition.

Mr. Balance: Yes, sir.

Q I believe, let me ask you this. What caused you to return from New York?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Was your conscience bothering you up in New York?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Is your conscience bothering you now?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q That's all, Your Honor.

* * * * *

Mr. Stroud: If it please the Court, that is all the evidence in those particular charges and those particular defendants.

Mr. Stroud: We will now hear evidence of the three defendants charged with conspiring to the murder of Harvey Cumber. They are Ben Chavis, Marvin Patrick and Tommy Atwood.

DIRECT EXAMINATION (By Mr. Stroud)

Q On the 7th day of February, on a Sunday, 1971, were you at the church on that morning?

A Yes, sir.

The Court: What date was that?

Mr. Stroud: The 7th of February, 1971, on a Sunday. On that particular morning at approximately ten o'clock, did you have occasion to go outside the church?

A Yes, sir:

Q What occurred when you came outside the church?

A Whenever I was coming out of the church someone hollered down the street, and said, "There's a truck coming." And a truck began to turn. Myself, Chavis and others were shooting and started shooting toward the truck.

Q Where were you at that time?

A I was standing by the telegram pole.

Q Where is that in relation to the steps of the church?

A It is like - it is really closer to - coming down off the steps, it is on the right hand side of the drive.

Q Next to the Templeton house?

A Yes, sir, on the other side of the street.

Q What type truck was this?

Mr. Stroud: We will now hear evidence of the three defendants charged with conspiring to the murder of Harvey Cumber. They are Ben Chavis, Marvin Patrick and Tommy Atwood.

DIRECT EXAMINATION (By Mr. Stroud)

Q On the 7th day of February, on a Sunday, 1971, were you at the church on that morning?

A Yes, sir.

The Court: What date was that?

Mr. Stroud: The 7th of February, 1971, on a Sunday. On that particular morning at approximately ten o'clock, did you have occasion to go outside the church?

A Yes, sir.

Q What occurred when you came outside the church?

A Whenever I was coming out of the church someone hollered down the street, and said, "There's a truck coming." And a truck began to turn. Myself, Chavis and others were shooting and started shooting toward the truck.

Q Where were you at that time?

A I was standing by the telegram pole.

Q Where is that in relation to the steps of the church?

A It is like - it is really closer to - coming down off the steps, it is on the right hand side of the drive.

Q Next to the Templeton house?

A Yes, sir, on the other side of the street.

Q What type truck was this?

A It was a red and white truck.

Q Was it a pickup truck, a big truck- - -

Mr. Ferguson: OBJECTION to leading.

The Court: SUSTAINED

Q What type of truck was it?

A A pickup truck.

Q What street was that truck traveling on when you first observed it?

A It was traveling on Sixth Street.

Q Where did the truck go from the point where you first observed it?

A The truck was, it was beginning to make a turn towards Fifth Street.

Q On what street?

A On Nun.

Q Could you tell how many persons were in the truck?

A There was only one.

Q Male or female?

A Male.

Q White or black?

A White.

The Court: What color did you say?

A White.

Q Where was Ben Chavis at that time?

A Ben Chavis was standing at the bottom of the steps.

Q The bottom of what steps?

A Reverend Templeton's.

Q Reverend Templeton's house?

A Right.

Q . This would be on Nun Street?

A Yes.

Q Did you see anyone else there at this time outside the church?

A Chili, he was standing in the middle of the street.

Q Middle of what street?

A Nun.

Q How far was he from the church?

A I couldn't really say.

Q Approximately?

A I would say maybe about 16 feet.

Q Can you point out some place in the courtroom he would be in relation to the truck?

A From here to where that pitcher is at.

Q From where you are to where the pitcher is at. Where was he?

A He was at the corner of Sixth Street.

Q Six and what?

A Sixth and Nun.

Q Where was he in relation to the house that morning, if you know?

A He was at the end of the street facing towards Fifth and Nun.

Q Did you have a weapon at this time?

A Yes, sir.

Q What type weapon did you have?

A Thirty-eight.

Q Thirty-eight pistol?

A Yes, sir.

Q Did Chavis have a weapon at the time you observed him?

A Yes, sir.

Q What type weapon did he have?

A Machine gun.

Q Did Marvin Patrick have a weapon when you observed him there at the street?

A Yes, sir.

Q What kind of weapon?

A Machine gun.

Q Did Tommy Atwood have a weapon?

A A rifle.

Q As the truck began to make a turn as you described, what, if anything, occurred then?

A Whenever the truck began to make a turn, we started shooting; shooting in the truck.

Q Who is we?

A Myself, Chavis and Chili and Tommy.

Q What happened then?

A Then the man stopped; got out of the truck and we continued shooting. Then he fell.

Q Then what happened?

A Then we walked up there where he was.

Q Then how close did you get to him?

A I would say from about where I am to the table right there.

Q From where you are to where Mrs. McChesney is?

A Right.

Q What was his condition at that time, if you know?

A My condition was that he was dead.

Mr. Stroud: Your Honor, at this time the State wants to ask Allen Hall if he can identify the defendants.

Mr. Ferguson: OBJECTION

The Court: SUSTAINED

Mr. Stroud: Your Honor, if it please the cour, may we approach the bench?
(Counsel approaches bench)

The Court: I am going to OVERRULE the objection.

Mr. Stroud: I am going to hand you this picture and ask you if you can identify it?

Mr. Ferguson: OBJECTION

The Court: OVERRULED

A Yes, sir.

Q Do you know who this photograph is of?

A Yes, sir.

Q Who is it?

A Mr. Cumber.

Q Was he the man you observed outside the truck?

A Yes, sir.

Q I have no further questions at this time.

* * * * *

C ROSS EXAMINATION (By Mr. Ferguson)

Q Where did you spend the night on the night of the 6th?

Mr. Stroud: OBJECTION

The Court: OVERRULED

A At the church.

Q Did you go to sleep?

A No, sir.

Q You stayed up all night long?

A Yes, sir.

Q What were you doing all night?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Did you go to sleep Friday night while you were there in the church?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q Did you ever go to sleep while you were there in the church?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Mr. Ferguson: May I be heard? The State has used this witness to testify to several events occurring over a two day period. I am trying to find out what the witness's ability to observe was and I think his physical condition at that time would be relevant. He said he was up all night Saturday night. I want to know if he was up all night Friday night, too.

Mr. Stroud: This is only a preliminary hearing. It is not a trial

The Court: OVERRULED as to this question.

Q Where did you sleep Friday night?

A I stayed in the church.

Q Did you go to sleep?

A No, sir.

Q Did you go to sleep at all between Friday and Sunday?

A I wouldn't say "sleep".

Q You wouldn't say you went to sleep at all?

Cross Exam. by Mr. Ferguson

A No, sir.

Q You say it was about ten o'clock when you went outside the church on Sunday morning.

A Yes, sir.

Q Did anyone go outside the church with you?

A No, sir.

Q Did you know Mr. Cumber before this morning?

A No, sir.

Q You didn't know him?

A No, sir.

Q You never heard his name mentioned to you by anyone?

A No, sir.

Q When you went outside the church did you know a truck would be coming down the street?

A No, sir, I didn't.

Q So, you had no discussion with anyone about going outside the church that morning?

A No, sir.

Q When you went outside, you said someone down the street hollered something.

A They hollered, they said, "There's a truck coming."

Q That's all they said?

A Yes, sir.

Q You don't know who it was that said that?

A No, sir.

Q How long had you been outside the church when you heard that?

A I had just got outside.

Q When did you change guns?

A I changed guns that day - Saturday night. I mean Friday, whenever we came down from that apartment house.

Q You went to the apartment house on Friday?

A Yes, sir.

Q You say you went to the apartment house on Friday?

A Yes, sir.

Q And when you came back from the apartment house, you say, you changed guns?

A Yes, sir.

Q What kind of gun did you have when you went to the apartment house?

A Twenty-five automatic.

Q So, from Friday night until Sunday, you had a thirty-eight once you made the change. What was your answer to that?

A Sir?

Q Did you answer that yes?

A I changed guns on Saturday night.

Q Why did you say you changed on Friday?

A I was thinking about the other occasion and I changed- - -

The Court: (Let's stop the conversation.)

Q Thinking of what other occasion?

A Of the occasion whenever I had the twenty-five.

Q You were thinking of an occasion whenever you had the twenty-five?

A Yes, sir. Like, well, what I am trying to say, I was trying to get the definite time whenever I changed guns and it was on a Saturday.

Q Did someone indicate to you just now it was Saturday rather than Friday?

A No, sir.

Q When did you go to the apartment house?

A We went on a Saturday.

Q Now, did you change guns any more after that?

A No, sir.

Q Now, after you went outside the church on Sunday morning, you never heard anybody say anything except that there was a truck coming, is that right?

A Yes, sir.

Q And you didn't know who said that?

A No, sir.

Q Go up to the diagram. Point out to where you were.

A I was right here.

Q So, you came out of the church and walked down the street, is that right?

A No, sir. I came out of the church. There's a telegram post right in here. Chili, he was standing right out here. Tommy, he was standing here at the corner. There was somebody down the street that hollered.

Q Where was the someone who was hollering?

A I don't know where they was, but from, I say it come from everywhere. We had some posted out down there.

Q So, when you heard someone holler "There's a truck coming," you started shooting, is that right?

A No, sir. See, whenever they hollered, "Here come a truck". About the same time they hollered, "Here come a truck", I'd say maybe

three seconds, the truck came in view, then we started shooting. As the truck turned, a man got out and we continued shooting and then he fell.

Q Wasn't there a barricade up there?

A Yes, sir, there was a barricade. The barricade was right along in here. Right along in there. Because we had - like, we had moved the pipes back and had right along in here some garbage cans to keep any kind of traffic from coming down towards the church.

Q When did you move them back?

A We moved them back that Saturday night after we had come back to the church.

Q Did you move them?

A I helped.

Q I'm sorry?

A I said, "I helped to move them."

Q So, now you are saying, this truck came down the street, pulled around the corner, stopped and the man got out.

A Whenever the truck came it began to turn and we started shooting, then the man stopped, got out and we were still shooting, then he fell. Then we came down here and I looked at him. I turned around and I went back to the church - I mean house.

Q By yourself?

A I went in the house by myself and then Chavis came in and then somebody else came in and called down here, I don't know for sure.

Q Who was inside of the house when you went back inside of the house?

A Reverend Templeton and his wife.

Q Reverend Templeton and who?

A Reverend Templeton and his wife and some others.

Q Do you know who the others were?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Q How many shots did you fire in that direction?

A I won't say.

Q How many shots did you fire?

A I'm not too sure, so I won't say.

Q You don't know how many anybody else fired either, do you?

A No, sir.

Q You don't even know who fired them?

A No, sir.

Q How long did you stay outside?

A I'll say ten minutes.

Q Was there a gun lying near the area where you saw Cumber?

A I can't say.

Q Now, when did you first relate this incident to the police?

A I put that in my statements.

Q The first statement or the second statement?

A My second statement.

Q Your second statement. You didn't mention anything of this at all in your first statement, is that correct?

A Yes, sir, I mentioned - whenever I called them, I mentioned about it.

Q What?

A Yes, sir.

Q You told the police the first time you made a statement to them in May

of 1971, is that right?

A Not the first time. I didn't say the first time.

Q You did not tell them the first time.

A No. But the second time I made my statement, I made it in there.

Q You are talking about the second written statement you gave?

A Yes.

Q Do you recall when it was you gave the second written statement?

A I won't say because I am not sure.

Q It was a few weeks ago, wasn't it?

A It was longer than a few weeks ago.

Q How much longer than a few weeks ago was it?

Mr. Stroud: OBJECTION

The Court: SUSTAINED

Mr. Ferguson: I fail to see how the witness can have such a good memory on some things and not on others. He made a statement. I just asked him when he made it.

Mr. Stroud: Your Honor, he will have every right to cross examine him at trial in Superior Court, if there is a trial.

The Court: I think he sort of answered the question anyway, let's move along.

Q You don't know when you made the second statement?

A Not right off hand, no, sir,

Q Were you asked questions specifically about that incident when you made the statement?

Mr. Stroud: OBJECTION

The Court: OVERRULED

A I'll say - I have to say yes.

Q You'll say yes?

A Yes, sir.

Q You were asked if you knew anything about that incident?

A Yes, sir.

Q Who asked you about it?

A The detectives.

Q Which one?

A Detective Fredlaw and them.

Q Was this one of the times you sent for the detectives?

A Yes, sir.

Q Did you ever talk to the Solicitor about it?

A No, sir.

Q You don't recall ever talking to the Solicitor at all?

A No, sir.

Q Never discussed this case with him?

A The only time I talked to him was Friday, - but not long then.

Q This past Friday?

A Yes, sir.

Q At no time prior to this past Friday did you talk to him, is that right?

A Yes, sir.

Q Are you saying, "Yes, that's right", or "Yes, you talked to him".

A Yes, that's right.

Q Had you already signed the second statement at the time you talked to the Solicitor?

A Yes, sir.