

**THE WILMINGTON TEN CASE**

**STATE TRIAL TRANSCRIPT**

**VOLUME II**

**trial transcript (all witnesses except Hall)**

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1627 TO PAGE 1676**

**PAGE COUNT OF 50 PAGES**

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

PENDER COUNTY

STATE OF NORTH CAROLINA )

-vs- )

BENJAMIN FRANKLIN CHAVIS )  
MARVIN PATRICK )  
CONNIE TYNDALL )  
JERRY JACOBS )  
WILLIE EARL VEREEN )  
JAMES MCKOY )  
REGINALD EPPS )  
WAYNE MOORE )  
JOE WRIGHT )  
ANN SHEPHARD )

TRANSCRIPT OF TESTIMONY

Burgaw, North Carolina

September 11, 1972.

Before: Robert M. Martin, Judge Presiding,  
and a jury.

Appearances:

JAMES T. STROUD: Assistant Solicitor and DALE JOHNSON,  
Assistant Attorney General, representing the  
State of North Carolina.

JAMES FERGUSON and CHARLES BECTON, Esqs., of Charlotte,  
N. C., FRANK BALLANCE, Esq., of Warrenton, N. C.,  
JOHN HARMON, Esq., of New Bern, N. C., of counsel  
attorneys at law, representing the defendants  
Chavis, Patrick, Tyndall, Jacobs, Vereen, McKoy,  
Epps, Moore and Wright.

MATHIAS P. HUNEVOL, Esq., of counsel, attorney at law,  
representing the defendant Shephard.

Josephine L. Seila,  
Official Court Reporter,  
P O Box 718  
Selma, N. C. 27576.

VOLUME II (Continued) Section C

TRANSCRIPT OF TESTIMONY

Witness - Jerome Mitchell

the motion before the next witness. It is relevant to the witness who just came off the stand.

THE COURT: All right. Come up to the bench. (Conference at the bench.)

JEROME MITCHELL, called as a witness for the State, being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

~~Q State your full name to the Court, please.~~

~~A~~ *My name is*  
Jerome Mitchell.

~~THE COURT: Ladies and gentlemen, can you hear the witness? Anytime you can't hear, please let me know.~~

~~Q State that again, please.~~

~~A Jerome Mitchell.~~

~~Q How old are you, Mr. Mitchell?~~

~~A~~ *I am*  
17.

~~Q When will your birthday be?~~

~~A~~ *My* November 9. *will*

~~Q And where are you from?~~

~~A~~ *I am*  
Wilmington.

~~Q Were you born and reared in Wilmington?~~

~~A That is right.~~

~~Q Is that where your parents live now? Your mother?~~

~~A~~ ~~Correct.~~

~~Q~~ ~~Now~~ <sup>11</sup> ~~On February 5 and 6 of 1971,~~ <sup>1</sup> ~~did you know any~~  
~~of these defendants?~~

~~A~~ ~~Correct.~~

~~Q~~ ~~Which ones?~~

~~A~~ ~~All of them.~~ <sup>the defendants.</sup>

~~Q~~ ~~And did you see them on February 5 and 6, 1971?~~

~~A~~ ~~Yes, I did.~~

~~Q~~ ~~Where?~~

~~A~~ ~~At Gregory Congretational Church.~~

~~Q~~ ~~Could you speak up, please?~~

~~A~~ ~~At Gregory Congregational Church.~~

~~Q~~ ~~Where was Gregory Congregational Church~~ <sup>is</sup> ~~located?~~

~~A~~ ~~On Nun Street between 6th and 7th.~~

~~MR. FERGLISON: We can't hear the witness, your Honor.~~

~~THE COURT: Speak up louder. Keep your voice up so we can all hear.~~

~~Q~~ ~~Where?~~

~~A~~ ~~On Nun Street between 6th and 7th.~~

~~Q~~ ~~And what was your occasion for seeing the defendants and being at Gregory Congregational Church at this time?~~

~~A~~ ~~Well I was participating in activities that was going on at the time.~~

Q Pardon?

A ~~I was participating in activities that was going on at the time.~~

Q What kind of activities were going on at this time?

MR. FERGUSON: Objection.

SOL. STROUD: I withdraw the question, your Honor.

THE COURT: Objection sustained.

Q Now prior to February 1971, had you ever been charged with any criminal offense?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. —)

A Yes, I have.

Q Before that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection. Has already been answered.

MR. FERGUSON: Your Honor, we will object to the Solicitor leading the witness.

THE COURT: Don't lead him. Overruled. (Exemption No. —)

Q Before February 7, 1971, had you ever been charged with a criminal charge?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exemption No. —)



Q Before February 6, 1971, had you ever been charged with a criminal offense?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception No. —)*

A Yes.

Q What?

MR. HUNEVOL: Objection. *(Exception No. —)*

A Robbery.

Q Did you come to trial on those offenses?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection. *(Exception No. —)*

A Yes, I did.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. —)*

Q When?

A In June of this year.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. —)*

Q Were you represented by an attorney at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. —)*

A Yes, sir.

Q Who?

A Jeff Miles and Mr. Rice.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Jeffery Miles and Mr. Rice.

Q Of what town? Where do they practice law?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Wilmington.

Q How did you plead to your charges?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A Guilty.

Q Were you sentenced at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled.

A Not at that time.

Q When were you sentenced?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A In July.

Q What sentence did you receive?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A 35 years

~~Q 35 years where?~~

~~A In the State Department of Correction.~~

Q What was your participation in the murder and robbery?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Sustained.

SOL. STROUD: I withdraw the question, your Honor.

Q In that particular case when you were charged, did you testify for the State of North Carolina against co-defendants?

A Yes, sir; I did.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Sustained.

MR. FERGUSON: Move to strike it.

THE COURT: Motion to strike allowed.

MR. FERGUSON: As for instructions.

THE COURT: Do not consider this testimony, members of the jury.

MR. BALLANCE: Would you instruct the witness not to answer when there is objection until the Court has ruled?

(No answer.)

Q Now prior to February 5 and 6, 1971, did you know any of these defendants?

SOL. STROUD: Objection; he's already answered that.

THE COURT: Overruled. *(Exception No. ---)*

A Yes, I did.

~~Q Which ones did you know?~~

~~A All of them.~~

Q How long had you know Marvin Patrick?

MR. BALLANCE Object to the leading.

THE COURT: Overruled. *(Exception No. ---)*

A I met Marvin Patrick in 1970.

~~Q Would you point Marvin Patrick out in the courtroom, please?~~

~~A He is the one on the end with the brown suit jacket on.~~

Q Where did you meet him in 1970, if you know?

MR. FERGUSON: Object. *(Exception No. ---)*

A Out on -

THE COURT: Let me see you a minute.

(Conference at the bench.)

THE COURT: Members of the jury, would you retire to your room?

(The jury retired from the courtroom.)

THE COURT: All right, Mr. Solicitor.

DIRECT EXAMINATION BY SOL. STROUD:

~~Q~~ <sup>I met</sup> Where did you meet Marvin Patrick?

~~A~~ On Dawson Street.

~~Q~~ In 1970?

~~A~~ Correct.

Q And did you have between the time you met him and the time you saw him at the church, did you see him on more than one occasion?

A Now and then, off and on.

Q What was your relationship with him?

A Well just friends. I mean, we never communicated.

~~Q~~ <sup>not</sup> Did you know him by ~~his~~ name?

~~A~~ <sup>not</sup> Not by his real name; just by Chili.

Q Did you know any of his brothers or step-brothers?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

~~A~~ Yes, I knew Doug and Ronny Carlos.

~~Q~~ They are his <sup>half-</sup> brothers?

~~A~~ Right.

~~Q~~ Or half-brothers?

~~A~~ Well, half-brothers, I guess.

~~Q~~ Do you know where he lived in February of 1971?

~~A~~ Well in Hillcrest.

~~Q~~ Now how about the defendant Connie Tyndall? <sup>the defendant Connie Tyndall</sup> Had you known him prior to February 5 and 6, 1971?

~~A~~ Yes, sir.

~~Q~~ Would you point him out in the courtroom, please?

~~A~~ He is one next to Reginald Epps in the white sweater.

~~Q~~ In the last row there?

~~A~~ Right.

~~Q~~ Did you know his name before February 5 and 6, 1971?

~~A~~ Right.

~~Q~~ How long had you known Connie Tyndall?

~~A~~ I met him in about '67.

~~Q~~ What was your relationship with him?

~~A~~ We didn't have any relationship; knowing him and being around him.

~~Q~~ He is older than you <sup>I am,</sup> are?

~~A~~ Yes, sir.

~~Q~~ Where would you see him when you did see him? <sup>I saw her</sup> <sub>at</sub> 8th and Dawson; sometime on Nixon Street.

~~Q How about the defendant Jerry Jacobs? Had you~~  
*the defendant Jerry Jacobs*  
known him prior to February 5 and 6, 1971?

~~A Yes, sir, I have.~~

~~Q Would you point him out in the courtroom, please?~~

~~A He is the one between Tyndall and Vereen there with~~  
the <sup>light</sup> blue sweater shirt on.

~~Q The blue shirt?~~

~~A Right.~~

~~Q What shade blue? Light blue?~~

~~A Light blue.~~

~~Q How long had you know Jerry Jacobs?~~

~~A I really met him in about '65. I began to know~~  
him in about '67.

Q How did you get to know Jerry?

A Well we used to be on the block together at Castle  
Street and knew his brothers.

~~Q Pardon?~~

~~A And I knew his brother.~~

Q Did you ever visit with him socially or he with you  
socially?

A Yes, we were together a few times.

MR. FERGUSON: We object to the leading on the  
voir dire.

THE COURT: Overruled. (*Exception No. —*)

Q <sup>I did</sup> In February of 1971 do you know where Jerry Jacobs lived?

A ~~Yes, I do.~~

Q ~~Where?~~

A <sup>He lived on</sup> Church Street

Q ~~Where on Church?~~

A ~~Between 6th and 7th.~~

Q ~~And did you know his full name prior to February 5, 1971?~~

A ~~Yes, sir, I do.~~

Q <sup>I did know</sup> ~~How about the defendant James McKoy? Did you know him prior to February 5 and 6, 1971?~~

A ~~Yes, sir; I did.~~

Q ~~Would you point James McKoy out in the courtroom, please?~~

A ~~He is the one sitting between Marvin Patrick and Wayne Moore with the Maroon high boy and maroon jacket.~~

Q ~~Now did you know his full name prior to February 5 and 6, 1971?~~

A ~~Yes, sir; I do.~~

Q How did you know James McKoy?

A We used to be in a <sup>musical</sup> band together in about '67.

Q ~~What do you mean by a band?~~

A ~~We used to play base in a group I was in.~~



~~Q In a musical band?~~

~~A Yes.~~

Q Did you ever live anywhere near him?

A I later roomed on Ann Street. He was staying at 6th and Nun.

~~Q And you were staying at 6th and Ann?~~

~~A Right.~~

Q What was your relationship with him?

A Just participated in groups together. That is about all.

~~Q~~ Prior to February 5 and 6, 1971, did you know the defendant Willie Earl Vereen?

~~A Yes, I do.~~

~~Q Would you point out the defendant Vereen, please?~~

~~A~~ He is the one in the back row with the dark blue turtleneck sweater on.

~~Q~~ Did you know his full name prior to February 1971?

~~A Yes, sir.~~

Q And how did you get to know Willie Earl Vereen?

A We attended school together *at*

~~Q Where?~~

~~A~~ Williston.

Q And was there any other relationship that you had with him?

MR. FERGUSON: I object to the leading.

THE COURT: Overruled. Don't lead him. *(Exception No.)*

A I later got to know him better. He was in a band at the time playing drums and we associated.

*I did know*  
Q ~~How about~~ the defendant Reginald Epps? ~~Did you know~~ him prior to February 5 and 6, 1971?

A ~~Yes, sir, I did.~~

Q ~~Would you point him out in the courtroom, please?~~

A He is the one on the back on the end here with the beige striped die knit on maroon pants.

Q *I* Did you know his full name prior to February 5, 1971?

A ~~Yes, I did.~~

Q ~~How long had you known Reginald Epps?~~

A I had seen him around about in about '70 and mistrack of him and I seen him again about '71.

Q ~~Where would you see him in '71?~~

A I met him in Castle

Q ~~Where on Castle?~~

A At the Liberation Club.

Q *I* Prior to February 5 and 6, 1971, had you know the defendant Joe Wright?

A ~~Yes, sir, I had.~~

Q ~~Would you point him out in the courtroom, please?~~

A He is the one sitting next to Benjamin Chavis with the green suit on there.

~~Q And how long had you known Joe Wright?~~

~~A I met Wright in about '67.~~

~~Q Pardon?~~

A I met him in about '67 in school.

~~Q Where?~~

~~A~~ <sup>at</sup> Williston.

~~Q Did you know his full name at that time?~~

~~A Yes, sir, I did.~~

~~Q Did you know any member of his family?~~

~~A I knew his brother Tommy.~~

~~Q Anyone else?~~

~~A Not right off. I knew his father. I used to work with his father later.~~

~~Q Pardon?~~

~~A I used to work with his father later, Wilmington~~  
~~Wilmington~~  
Housing Authority.

~~Q Prior to February 5 and 6, 1971, did you know the defendant Wayne Moore?~~

~~A Yes, sir.~~

~~Q Would you point him out, please?~~

A He is the one sitting between Mrs. Shephard and McKoy with the red jacket on and the pink shirt.

~~Q And did you know his full name prior to February 5 and 6, 1971?~~

~~A Yes, I did.~~

~~Q How did you know Wayne Moore?~~

A I met him on Castle Street.

~~Q And the defendant Shephard, Ann Shephard, had you seen her or did you know her prior to February 5 and 6, 1971?~~

~~A Yes, sir, I did.~~

~~Q How did you know her?~~

~~A I met Ann in about '69. She was staying at Houston Moore Projects and my sister was staying out there at the time, and I was staying with my sister, and I later met Ann Shephard out there.~~

~~Q Pardon?~~

~~A And I later met Ann Shephard out there.~~

~~Q Had you ever visited in her home or she in yours prior to February 5 and 6, 1971?~~

MR. FERGUSON: Object to the leading.

THE COURT: Overruled. *(Exception taken)*

~~A I visited in her home. She never visited my place.~~

~~Q Huh?~~

~~A I said I visited in her house, but she never visited in my place.~~

~~Q *I had know* Now how about the defendant Benjamin Chavis? Had you seen him prior to February 5 and 6, 1971?~~

~~A Yes, I have. I met him on a few occasions, a few meetings. I met him first of December at Molly~~

~~Wicks at the meeting.~~

~~Q Talk louder.~~

~~A~~ I met him at a meeting in December of '70 at Miss Molly Hick's house in Taylor Homes.

~~Q~~ Did you see him anymore after that prior to February <sup>dr</sup> ↓

~~A~~ In January.

~~Q~~ Where?

~~A~~ I seen him again in December, the last of December; then again in January.

~~Q~~ Where?

~~A~~ I seen him at Ann Shephards the last of December and at Molly Hick's house in January.

~~Q~~ And would you point him out in the courtroom, please?

~~A~~ He is the one sitting between Mr. Ferguson and the other attorney with the black suit on and the reverend collar.

~~Q~~ Reverend collar?

~~A~~ Right.

Q Did you know his full name prior to February 1971?

A Only Ben.

~~Q~~ Only Ben?

~~A~~ Right.

did

Q Now you see any of the defendants - I believe you

already stated you saw the defendant on February 5 and 6. Is that right?

A. Yes, I did.

~~Q. Where?~~

~~A. At Gregory Congregational Church.~~

~~Q. <sup>I saw</sup> All of the defendants?~~

~~A. Right.~~

~~Q. On both days?~~

~~A. Right.~~

~~Q. <sup>I was</sup> How long were at the church on February 5, that Friday?~~

~~A. All night. I spent the night there.~~

~~Q. How about on Saturday?~~

~~A. I stayed 'til late Saturday night.~~

Q. Were you in their presence during this Friday evening and night?

A. Well I was in Chavis' presence for a while, Marvin Patrick and Ann Shephard; and Saturday night Joe Wright and Willie Earl Vereen; and on occasion Epps.

SOL. STROUD: That is all the questions the State has on the voir dire.

MR. FERGUSON: I have just a couple of questions.

CROSS EXAMINATION BY MR. FERGUSON:

Q. When you talked to the Solicitor, Mr. STroud, and

the agents on February 18, were you shown photographs of the defendants?

A Mr. Ferguson, I was shown a photograph on one occasion, but I can't quite remember which occasion it was.

Q <sup>not</sup> Had you talked with them before February 18, 1972?

~~A No, I haven't.~~

Q <sup>I</sup> So this time in February was the first time that you related to any of them anything about the defendants. ~~Is that correct?~~

~~A This is correct.~~

Q And you say you were not shown photographs on that occasion?

A Well I was shown a photograph, but I can't recall which occasion it was.

~~Q What kind of photographs were you shown?~~

~~A~~ First of all, I seen some photographs of the church and Steve Corbett's funeral, and I seen some mug shots of the defendants.

Q <sup>Juras</sup> ~~Were you~~ shown mug shots of each one of the defendants?

~~A Yes.~~

Q And when you were shown these mug shots, were you asked "Do you know this person?"?

A Correct.

Q ~~Who~~ (<sup>me</sup> showed you the mug shots?)

A Detective Brown and Mr. Stroud.

Q ~~Were you shown these mug shots on more than one~~ <sup>I was</sup> ~~occasion?~~ <sup>on only</sup>

A ~~Only one.~~

Q Was that after March 17, 1972?

A I can't really say. Could have been. I can't really say.

Q ~~Had you already signed a statement at the time you~~ <sup>I</sup> ~~were shown the mug shots?~~ <sup>was</sup>

A ~~Yes.~~

Q ~~You had already made the statement?~~ <sup>I</sup>

A ~~Yes.~~

Q ~~Was Allen Hall present at the time you viewed the~~ <sup>was not</sup> ~~mug shots?~~ <sup>I</sup>

A ~~No, he wasn't:~~ not at this time.

Q Had any arrests been made at that time? Had any of the defendants been arrested at that time?

A I can't say because I didn't ask. It just didn't concern me at the time.

Q ~~Well where were you when you were shown these photo-~~ <sup>I was</sup> ~~graphs?~~

A In Goldsboro at Cherry Mental Hospital.

Q ~~How long did you remain - what were the dates that~~



~~you were in Goldsboro?~~

~~A~~ I was at Goldsboro January 21,

~~Q~~ ~~How long did you stay there?~~

~~A~~ Through April 2.

~~Q~~ Through April 2?

~~A~~ Right.

~~Q~~ <sup>I was</sup> ~~And you say you were~~ shown the photographs on only one occasion?

~~A~~ As I recall.

~~Q~~ Did you make identifications of the defendants from the photographs that <sup>I was</sup> ~~you were~~ shown?

~~A~~ I definitely did, ~~yes~~.

~~Q~~ Other than you, Mr. Stroud, Mr. Brown, was anyone else present at this showing?

A. It was a few people, but I couldn't say I had known them.

~~Q~~ Do you know now who they were?

A. I can't say exactly. They was there on that occasion because mostly different people come.

~~Q~~ You talked to different people each time you talked to somebody about this?

A. Well not necessarily the whole routine would be different people. I mean like some people would be different.

~~Q~~ At the time you were shown these photographs <sup>I was</sup> do you <sup>-I was</sup> know how many photographs you were shown? ~~shown quite a few~~

~~A~~ Quite a few.

Q Were you shown more than one photograph of each defendant?

~~A~~ I couldn't say I was or I couldn't say I didn't.

~~Q~~ I just don't recall. I only remember I seen photographs.

Q <sup>I</sup> You do recall if you saw at least one mug shot of each defendant. <sup>that I</sup> Is that correct?

~~A~~ Correct.

~~Q~~ <sup>I was</sup> Were you shown mug shots of persons other than the defendants?

~~A~~ Yes, I was.

Q Do you know how many of those you were shown?

A Well not offhand correct number. I remember seeing a few. I can't say how many.

Q Were you shown these photographs and then asked to pick from the photographs who the defendants were?

A Not exactly picking. I was handed photographs to identify.

Q Well were you handed a photograph of, let's say, Marvin Patrick and asked "Is this his picture?" Is this what happened?

A No, Mr. Ferguson, it was just that I was handed a photograph to be certain that this was the person I was talking about.

Q And were you shown a photograph then and asked "Are you sure this is Marvin Patrick?" Is that the way it happened?

A Yes, in them terms.

Q And handed a photograph and said, "Are you sure this is Ben Chavis?"

A Correct.

Q And handed a photograph and said, "Are you sure this is James McKoy?" and so forth through all the defendants?

A You are correct.

~~Q~~ Who (handed the photographs to <sup>me</sup> you?)

~~A~~ Mr. Brown

~~Q~~ Did <sup>he</sup> hand <sup>ed</sup> them to <sup>me</sup> you one by one?

~~A~~ Yes.

Q Do you recall how long this process took? How long you viewed the photographs?

A Didn't take long

~~Q~~ How long would you say?

~~A~~ Approximately 15 or 20 minutes.

Q And when you were shown the photographs were you

then asked "Was this person there at the church on Friday?" or "Was this person there on Saturday?"

A I was only asked was this the person that my statements was referring to. I guess they wanted to be certain that I was talking about the correct person.

Q Well I am just trying to find out if you were asked, say, when you were shown the photograph of Wayne Moore - You saw one of Wayne more, didn't you?

A Well, correct.

Q Were you shown the photograph and said was this Wayne Moore and was he at the church?

A No, it wasn't that way. Like I said, I was shown the photograph to identify so that I could verify my statements to be about that person.

~~Q~~ <sup>I was</sup> Were you shown the photographs to make sure you had the right person?

~~A~~ Correct.

~~Q~~ <sup>I was</sup> Now you said you were shown photographs of persons other than the defendants. ~~Do you know who those persons were?~~

~~A~~ Yes, I seen a photograph of Grant, and I have seen a photograph of Tommy Atwood and a few more people I can't recall.

Q Were you shown photographs of persons, any persons,

other than the persons you had mentioned in your statement?

A Well like I said, I was shown photographs of other people besides the defendants.

Q Well I am asking you had any of these people been mentioned by you in your statement that you had made on February 18?

A At this time when I was interviewing the photographs?

Q Yes.

A Well we was - that was the purpose of the photographs to verify the fact that my statement was correct and that I had the right person.

~~Q~~ <sup>P</sup> Now prior to the time you made the statement had <sup>you</sup> ~~not~~ you seen any of these same photographs?

~~A~~ No, I haven't.

~~Q~~ Was this before you signed the statement that you saw it?

~~A~~ No; I had already made my statement at the time that I seen the photographs.

Q I have no further questions.

THE COURT: Mr. Hunevol, do you have any questions?

CROSS EXAMINATION BY MR. HUNEVOL:

~~Q~~ <sup>I have seen</sup> You never saw a mug shot of Ann Shephard?

~~A~~ Yes, I have.

~~Q You state to this Court you saw a mug shot of Ann Shephard?~~

~~A That is correct.~~

Q What did the shot look like?

A Ann Shephard.

Q What did it have in the picture other than Ann Shephard?

A If I am not mistaken she had on a poncho, if I am not mistaken.

Q Did it have a prison number on it? Are you saying it had a prison number on it?

A If it was a mug shot I guess it did.

~~Q Did you say it was sometime after you signed the statement that you saw these photographs? Is that correct?~~

~~A That is correct.~~

~~Q There is no question in my mind that that picture of Ann was a mug shot and had prison numbers on her poncho?~~

~~A That is correct.~~

Q Do you recall whether you made that statement after March 15 or March 17 of 1972?

A I guess I stated before that I can't recall exactly when the statement was made. I told Mr. Ferguson at the time that I was admitted to the hospital

and the time that I left the hospital. So it was somewhere in between there.

~~Q~~ <sup>I was</sup> You were discharged from the hospital on April 2?

~~A~~ You are correct.

Q Can you recall whether it was - photographs were shown to you at the hospital? Is that what you stated?

A Correct.

Q Tell me this. The statement you made in February 18, 1972, have you done any amending or altering to that statement?

SOL. JOHNSON: Objection. That has got nothing to do with the identification.

THE COURT: Objection sustained. (Exception)

A O K. Thank you, Mr. Mitchell. (No)

REDIRECT EXAMINATION BY SOL. STROUD:

~~Q~~ When you made <sup>I</sup> your <sup>my</sup> statement on February 18 <sup>(me)</sup> you and Allen Hall were together. ~~Is that right?~~

~~A~~ Correct.

Q And prior to that that time had you told the police about these defendants and their activities on February 5 and 6, 1972, before that time?

MR. FERGUSON: Object. (Exception No. -)

A As I recall, I think that was the first time that I

talked to them.

Q You hadn't talked to the police before you talked -

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. —*)

SOL. STROUD: Your Honor, I would like to clarify that.

MR. FERGUSON: This is a voir dire about the photographs.

MR. HUNEVOL: He just answered the question.

THE COURT: Objection overruled.

Q Had you talked with any police officers about being at Gregory Congregational Church on February 5 and 6, 1971, before?

MR. BALLANCE: Objection. (*Exception No. —*)

Q Before you met Allen Hall and police officers and myself at Cherry Hospital on February 18k 1971?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (*Exception No. —*)

A I talked to Mr. Bill Walden, Det. Brown, and I think a few more came up and I made a statement to them the first time.

Q I am talking about any statement.

MR. FERGUSON: I object. He's been over that



about five times.

*(Exemption No. 1)*

THE COURT: Objection overruled. (To witness.)

Do you understand the question? (To Sol. Stroud) Ask the question again.

Q .Had you made any written statement prior to February 18, 1972, a signed, written statement?

MR. FERGUSON: Objection. This is voir dire about photographs.

A No.

SOL. STROUD: Your Honor, they brought the matter up on voir dire.

MR. HUNEVOL: The objected to us when we got outside the identification area.

SOL. STROUD: Your Honor, I withdraw the question.

~~Q~~ Now <sup>I was</sup> the photographs that ~~you were~~ shown of the defendants after you made the statement, were they photographs of the defendants who were at Gregory Congretational Church on February 5 and 6, 1971?

~~A~~ Correct.

~~Q~~ <sup>not</sup> Did you have any trouble identifying any of those people from the photographs?

~~A~~ No, I didn't.

Q No further questions.

MR. FERGUSON: I have nothing further.

THE COURT: Is there anything further for the State on voir dire?

MR. FERGUSON: I'd like to ask a few questions of Mr. W. C. Brown

W. C. BROWN, called as a witness by the defendants, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FERGUSON:

Q. Mr. Brown, what was the date that you exhibited these photos to Mr. Mitchell that I referred to?

A. I don't have my notes with me.

Q. Do you have your notes anywhere that you can refer to?

A. No, sir.

Q. Did you make any notes?

A. I have some.

Q. Where are those notes?

A. Should be at the station.

MR. FERGUSON: Your Honor, we'd like to have an order directed to this witness to get the notes reflecting the dates these photographs were shown.

THE COURT: All right, you can bring them back tomorrow? (to witness)

A. Yes.

MR. FERGUSON: Your Honor, do I understand we will be able to examine this witness further on voir dire?

THE COURT: Yes, sir. Mr. Hunevol, did you wish to ask the officer any question?

MR. HUNEVOL: No, sir.

THE COURT: Does the State wish to ask any questions now?

SOL. STROUD: No, sir.

THE COURT: Bring the jury back in.

(The jury returns to the jurybox.)

THE COURT: Everyone will remain here. Have a seat. Members of the jury, we are going to take a recess now until tomorrow morning at 9:30 o'clock. May I again caution you to remember the instructions that I have given you each day not to discuss this case with anyone nor allow anyone to discuss it with you or in your presence. Do not discuss it among yourselves until the case is all completed and you have the matter for your deliberation. Do not read any news article if such should appear in any paper. Do not view any television program if anything about this trial should appear. And do not listen to any account over the radio

if anything should appear. Members of the jury, let me caution you again when you leave the courtroom please go immediately to your destination and when you return in the morning please come immediately to your room. Do not linger in the corridor or in the courthouse grounds. You go and come back at 9:30 tomorrow morning. (The jury was dismissed.)

MR. FERGUSON: May we take this opportunity to get into the record our motion?

THE COURT: All right.

MR. FERGUSON: If your Honor please, at the time that the witness Hall was called from the stand, we objected to his being taken off the stand at that time and moved that he remain on the stand until we had an opportunity to further cross examine him after being given a copy of the amended statement which Mr. Hall says that he gave to Mr. Stroud when he called him up to Lumberton. We make that motion in light of the fact that Mr. Hall stated under oath that all of the additions made to the statement were the matters that he told Mr. Stroud and that nothing other than what he told

Mr. Stroud was put onto the statement; that he looked at those additions and that they became a part of the statement that he made. We further move to strike all of the testimony of Allen Hall based upon our lack of opportunity to fully cross examine him about matters within his knowledge regarding the incidents to which he testified specifically because we did not have the statement that resulted from the amendments that he made at the camp in Lumberton. Thirdly, your Honor, we move for a mental examination of the witness Allen Hall based upon his conduct on the witness stand during the course of this trial, and we'd like for the record also to show, your Honor, that at the time the witness came down off the witness stand towards counsel table here that we moved for a mistrial based on his conduct at that time in the presence of the jury. We want the record to show that he moved in the presence of the jury.

THE COURT: Is there anything else, Mr. Ferguson?

MR. HUNEVOL: Your Honor, I will concur in all those motions and I would like the record to reflect that there was a judicial determination

of work product prior to the time that the Court was supplied a copy of the instrument in question, and I believe that the first opportunity that the Court had to examine the statement of Hall's that we are talking about here was after he had left the witness stand.

THE COURT: I will rule on these tomorrow.

We'll take a recess until tomorrow morning at 9:30.

(The Court recessed at 4:50 P M.)

October 3, 1972

9:40 A M

(The following transpired in Chambers, before Robert Mr Martin, Judge Presiding. Those present were Assistant Solicitor James Stroud, Assistant Attorney General Dale Johnson, representing the State of North carolina and James Ferguson, Frank Ballance, Charles Becton, John Harmon and Mathias Hunavol, representing the 10 defendants.)

THE COURT: On the motion of Mr. Ferguson as of late yesterday afternoon when he moved that the witness Hall be required to have a mental examination and that

his evidence be stricken from the record and for mistrial, the Court finds as a fact that:

The witness Hall at the time of the incident in which he came off the witness stand was under cross examination by Mr. Ferguson and that he had been on the stand approximately five days; under cross examination since Thursday about 2 o'clock;

That the Court further finds that the witness Hall had reacted similarly in the Preliminary Hearing and that during the cross examination he had requested the Court to instruct Mr. Ferguson not to examine him in the manner in which he was doing and that the Court had requested Mr. Ferguson to lower his voice on several occasions and that also the Court requested Mr. Ferguson to allow the witness opportunity to answer the questions before another one was interposed; that at the time of the incident while the witness was answering a question another question was interposed by Mr. Ferguson and that Mr. Ferguson stood up about the time that the witness was visibly disturbed, at which time, as the Court observed, the witness came off the stand and had to be restrained by officers.

The Court finds and concludes that the demeanor of the witness and the incident was precipitated in some

degree by his long cross examination, the rapidity of the questions, the tone of voice of the examiner and that the motion for a mental examination of the witness is not required and the motion is denied. *(Exemption No. 1)*

MR. FERGUSON: May we let the record show that we except to each and every find of fact by the Court and to the conclusions of law. *(Exemption No. 1)*

THE COURT: And also that the motion to strike the evidence of the witness is denied. *(Exemption No. 1)*

MR. FERGUSON: I would like, if I may, to state that we would like to call to the Court's attention that shortly after the cross examination of the witness had begun and during recess of the Court we called to the Court's attention the fact that the witness was mouthing obscenity to me from the witness stand.

THE COURT: And also I believe that I made the remark, I asked you was it audible and you said there was no audible sound.

MR. FERGUSON: That is correct.

THE COURT: The motion for mistrial is denied. *(Exemption No. 1)*

MR. FERGUSON: In connection with that motion for mistrial, I'd like to state something for the record, if I may. *(Exemption No. 1)*

THE COURT: All right.



MR. FERGUSON: We are concerned about several things, We are concerned about the fact that at the time the witness lunged from the stand towards counsel table several of the jurors ran fro- the courtroom in apparent fear, and it has come to our attention that at least one female juror ran all the way downstairs outside of the courthouse and was crying and was visibly shaken when she came back into the courtroom. We also would like to make note of the fact that when court resumed after the recess that the Court, in the presence of the jury, admonished counsel for the defendants, Mr. Ferguson, to lower his tone of voice and no admonition at all was given to the witness who had lunged toward counsel table; and we feel that the effect on the jury by being placed in fear and running out of the courtroom by the conduct of the witness, coupled with the fact that counsel was admonished in the presence of the jury has had a prejudicial effect which cannot be erased.

MR. BALLANCE: It has come to our attention that one female juror said that she was nervous and wanted to see a doctor.

THE COURT: This came to the Court's attention and the Court requested the Bailiff to inquire if she felt that she could wait until the noon recess, which the

Court understands that she said that she could. The Court heard nothing further about it and presumed that either that she probably thought it was unnecessary to consult a doctor.

SOL. STROUD: I'd like to enter something in the record with regard to what Mr. Ferguson stated on behalf of the State and that is that after the incident when the witness came off of the witness stand that the Court called a 15 minute recess or a 10 minute recess; that after the recess the witness for the State was placed back on the witness stand; that cross examination continued thereafter without further incident.

THE COURT: Has anybody else got anything to say?

MR. FERGUSON: I have one other thing. I think I must say it is our position and we contend that neither I nor any other of the defense counsel rose or stood up from our seats until after the witness had stood up and started off the stand, and when I stood up I stood up to move away from the witness.

THE COURT: It is my recollection - I may be in error - It is my recollection that as the witness was talking, and it may be that he did start to rise - that Mr. Ferguson arose at the same time and continued his examination because I can remember right now you were

facing each other. And I realized and I tried to get both of you stopped, and it just wasn't enough time, as I recall it.

SOL. STROUD: I would like to enter this. It is true that as the State's witness was rising it is my recollection and also the recollection of Mr. Johnson on behalf of the State that Mr. Ferguson also arose at the defense table, continued to rather loudly question the witness after the witness was obviously and visibly aggravated by what had taken place prior to that and that Mr. Ferguson continued after that point and in a standing position to loudly question the witness, and it was during this time that the Court was trying to get the attention of all parties concerned and was unable to do so.

MR. HARMON: I think too little has been said about the witness's conduct. I think there should be some finding of fact about his conduct constituting direct contempt.

MR. FERGUSON: We'd like to let the record show also that the witness Hall came around from the stand and came within two feet of where Mr. Ferguson was sitting or standing, within two feet of counsel table which was approximately 15 or 20 feet from the witness stand; that

at no time did Mr. Ferguson advance from his position at the counsel table and that at that time approximately seven officers were required to restrain Mr. Hall.

THE COURT: The Court excused the jurors from the room as soon as it was humanly possible to do so.

MR. FERGUSON: There was one other thing I think the record should show. Mr. Hunevol's client, Mrs. Shephard, broke down in tears and was afraid to resume the same seat that she had near the end of counsel table close to the prosecution's table and moved her seat all the way down to the opposite end of the table away from counsel.

SOL. STROUD: The State would move at this time, your Honor, in connection with all that has been stated with relation to the incident when the State's witness Hall came off the witness stand that Mr. Ferguson, defense counsel, be held in contempt of court for his conduct during this time and that after asking questions and not allowing the State's witness to answer the questions before asking another and not waiting for the Court to rule on the objections by the State with regard to those questions it was after that point that the witness became visibly aggravated by what was occurring and when the witness stood up defense counsel Ferguson stood up, continued his examination of the witness at that time in a

rather loud fashion as has already been mentioned, not waiting for the Court to rule on objections before asking another question, not waiting for the witness to answer questions and that in the State's opinion Mr. Ferguson's conduct was only for one purpose and that was to aggravate the incident which, in fact, occurred, and for this conduct the State moves that he be held in contempt of Court.

MR. FERGUSON: Your Honor, I would just say that, of course, we oppose the motion, and it is our contention again that as I was asking questions the witness went into a tirade saying that he had told me over and over again that he didn't know what time he had engaged in the activities I was questioning him about; that the witness arose from the chair at that point and I did not hear any objections interposed by the State at that point, not any ruling by the Court; that I remained in my seat until such time as the witness had rose from the witness stand in a very belligerent manner, charged towards me at counsel table and I did not move from counsel table until after it was obvious to me that seven or eight persons who were attempting to restrain the witness might be unable to do so and that the witness came as close as two feet to me in seeking to attack me.

October 3, 1972

10 A M.

(The following transpired in the courtroom  
in the absence of the jury.)

THE COURT: Mr. Brown, would you come back to  
the stand?

MR. FERGUSON: We would move that now that the  
witness Allen Hall has completed his testimony  
he be removed from the courtroom. He is sitting  
behind counsel table and has made both counsel  
and defendants uneasy to have him sitting there  
in light of what has been going on before.

SOL. STROUD: Your Honor, it is essential to the  
State's case for identification and others  
that the State's witness Hall remain in the  
courtroom. I can assure the Court that there  
will be no incidents.

THE COURT: Proceed, Mr. Ferguson.

W. C. BROWN, called as a witness by the defendants, having  
been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. FERGUSON:

Q I believe you stated on yesterday you could refer  
to some notes to determine the date that the photo-  
graphs were shown to the witness Jerome Mitchell.

~~Is that correct?~~

~~A.~~ Yes, sir.

Q Do you have those notes with you now?

A No, sir; not as far as the date is concerned. I wasn't able to find that. I mean it wasn't written down.

~~Q Do I understand then that you have no dates?~~

~~A No, sir.~~

~~Q~~ <sup>not</sup> Do you have an independent recollection of what the date was?

~~A Not exact date, no, sir.~~

~~Q~~ <sup>I was</sup> Do you recall where you were when you showed these pictures to Mr. Mitchell?

~~A Yes, sir.~~

~~Q Where were you?~~

~~A~~ <sup>I was</sup> At Cherry Hospital.

~~Q~~ <sup>not exactly</sup> Do you know ~~or~~ how many different occasions you went to Cherry Hospital to talk with witness Jerome Mitchell?

~~A Not exactly. I'd say 2, 3 or 4 times.~~

~~Q When was the last time that you recall?~~

A I believe the last time I was at Cherry Hospital was in March.

~~Q~~ <sup>it</sup> Was it after the 17th of March?

A ~~Yes, sir.~~

~~Q~~ Could <sup>it</sup> have been that time that you showed him the photographs?

~~A Yes, sir.~~

Q Now to the best of your knowledge I'll ask you if all of the defendants with the exception of Wayne Moore, Joe Wright and Reginald Epps were arrested on or about the 17th of March, 1972?

A Yes, sir.

Q So then if the photographs were shown to Jerome Mitchell on it, it would be after March 17. If the pictures were shown by you to Jerome Mitchell on your visit there after the 17th of March, then all of the defendants with the exception of the three I mentioned, Reginald Epps, Wayne Moore and Joe Wright, would have been in custody. Is that correct?

A Yes, sir.

~~Q~~ During the times that you went to Cherry Hospital to visit with the witness Jerome Mitchell <sup>did</sup> you sign in a register showing that you <sup>was</sup> were there and the purpose that you <sup>was</sup> were there? <sup>for</sup>

~~A No, sir.~~

~~Q~~ You did not sign anything?

~~A No, sir.~~

~~Q~~ Do you <sup>not</sup> have any records at all which will show the



dates that <sup>I</sup> you went to Cherry Hospital to visit Jerome Mitchell?

~~A~~ NO, sir; I thought that I did, but I didn't.

~~Q~~ <sup>I</sup> Do you sign a daily report sheet indicating what <sup>my</sup> your daily activities are?

~~A~~ Yes, sir; usually during routine. However when you are working special assignment you don't. We have a summary that we have to fill out every day, and when you are working special assignment then you just put on there working special assignment.

~~Q~~ How did <sup>I</sup> you journey <sup>ed</sup> to Goldsboro from Wilmington?

~~A~~ By car,

~~Q~~ Your own car or an official car?

~~A~~ Official car.

Q By whom were you accompanied when you went there on these occasions?

A Mr. Stroud and Det. Monroe. On some occasions it would be A T F Agent Walden.

MR. FERGUSON: I have no questions.

MR. HUNEVOL: I have no questions.

EXAMINATION BY SOL. STROUD:

~~Q~~ <sup>I was</sup> Mr. Brown, were you present on February 18, 1972, at Cherry Hospital when Jerome Mitchell was inter-

viewed?

~~A Yes, sir.~~

Q At that time did he say anything with regard to any of these defendants?

A Yes, sir.

MR. HUNEVOL: Objection. (*Exception No. —*)

Q Which defendants did he mention?

A He mentioned Ann Shephard, Ben Chavis, Willie Earl Vereen, Marvin Patrick, Connie Tyndal, James McKoy, Merry Jacobs, Reginald Epps, Joe Wright, George Kirby, Wayne Moore and others that is not any of the defendants at this time.

~~Q You wrote those names down?~~

~~A Yes, sir.~~

~~Q For what purpose?~~

A To see if we had photographs on file of all of the subjects that he named.

~~Q~~ <sup>Q</sup> And <sup>my</sup> at this time did he relate during the time he was in <sup>my</sup> your presence <sup>any</sup> any previous knowledge that he had had of any of these defendants prior to February 5 and 6, 1971?

~~A Yes, sir.~~

~~Q~~ <sup>Q</sup> And <sup>not</sup> when you showed him the photographs did he have any difficulty picking out and identifying photo-

*I*  
graphs that you showed him?

~~A~~ He did not.

RE-EXAMINATION BY MR. FERGUSON:

~~Q~~ Prior to the 17th of March, 1972, ~~Mr. Brown~~, did you have any mug shot<sup>*I*</sup> of the defendant Marvin Patrick?

~~A~~ Yes, sir.

~~Q~~ Prior to the 17th of March, 1972, did you have any mug shot of the defendant Connie Tyndall?

~~A~~ Yes, sir.

~~Q~~ Prior to the 17th of March, *I not* did you have any mug shot of the defendant James McKoy?

~~A~~ I don't believe so.

~~Q~~ Did you have any *P* prior to that date, *I* did you have any mug shot<sup>*I*</sup> of the defendant Jerry Jacobs?

~~A~~ Yes, sir.

~~Q~~ Prior to that date, *I not* did you have any mug shot of the defendant Ann Shephard?

~~A~~ NO, sir; I don't believe so.

~~Q~~ Prior to that date, *I not* did you have any mug shot of the defendant Willie Vereen?

~~A~~ I don't think so.

~~Q~~ Did you have *a* an mug shot of the defendant Reginald E-ps?

~~A~~ Yes, sir.

~~Q~~ *I don't believe I had*  
~~Did you have any mug shot of the defendant Wayne Moore?~~

~~A~~ ~~I don't believe so.~~  
*I don't believe I had*

~~Q~~ ~~Did you have any mug shot of the defendant Joe Wright?~~

~~A~~ ~~I don't believe so.~~

~~Q~~ *a*  
~~Did you have any mug shot of the defendant Benjamin Chavis?~~

~~A~~ ~~Yes, sir.~~

Q Now when did you acquire a mug shot of the defendant Marvin Patrick?

A If I am not mistaken Marvin Patrick's photograph was taken when he was arrested on another charge prior to '71.

*d*  
~~Q~~ *not*  
~~Do you know when that was?~~

~~A~~ ~~Not right offhand.~~

*d*  
~~Q~~ *not*  
~~Do you know what the charge was?~~

~~A~~ ~~Not right offhand.~~

*d*  
~~Q~~ *d*  
~~When did you acquire a mug shot of the defendant James McKoy?~~

~~A~~ ~~After the 16th of March.~~

~~Q~~ ~~After the 16th of March?~~

~~A~~ ~~Right.~~

Q That was after you arrested him?

~~A~~ ~~After he was arrested~~ *on these charges.*

~~Q After he was arrested on these charges?~~

~~A Right.~~

~~Q Do I understand prior to the 16th of March, <sup>you</sup> did not have a mug shot of James McKoy?~~

~~A That is right.~~

~~Q When <sup>did</sup> you acquire a mug shot of the defendant Willie Vereen?~~

~~A That was after.~~

~~Q After he was arrested on March 16?~~

~~A Yes, sir.~~

~~Q When did you acquire a mug shot of the defendant Jerry Jacobs?~~

~~A We had a mug shot on file for him.~~

~~Q Do <sup>not</sup> you know what for?~~

~~A No, sir.~~

~~Q When did you acquire a mug shot of the defendant Reginald Epps?~~

~~A We had mug shots on him also.~~

~~Q Prior to the 16th of March?~~

~~A Right.~~

~~Q Do you know what for?~~

~~A If I am not mistaken that was for auto larceny. When he was arrested for auto larceny.~~

~~Q What about Wayne Moore? When did you acquire a~~

mug shot of Wayne Moore?

~~A~~ After he was arrested. I don't believe I showed him the photograph of Wayne Moore at that time.

~~Q~~ Did you <sup>not</sup> later show him the photograph of Wayne Moore?

~~A~~ No, sir; not to my knowledge. I don't remember showing him a photograph of Moore or Joe Wright.

~~Q~~ When did you acquire a photograph, a mug shot of Joe Wright?

~~A~~ I believe if I am not mistaken it was in May of this year, after he was arrested.

Q When did you acquire a mug shot of the defendant Benjamin Chavis?

A We had one on file before the 16th of March of this year.

~~Q~~ Do you <sup>not</sup> recall when you acquired that mug shot?

~~A~~ No, sir.

~~Q~~ Now where are these photographs that you showed to the witness Jerome Mitchell?

~~A~~ (I don't really know)

~~Q~~ But you do have access to them, do you not?

~~A~~ I can get them.

~~Q~~ How long will it take you to get them?

~~A~~ Well I'd have to go back to the station.

~~Q~~ Now you say that you wrote the names of the persons

down that Jerome Mitchell mentioned to <sup>(M2)</sup> you when you talked with him on February 18?

~~A Yes, sir.~~

~~Q~~ <sup>I was</sup> Were you referring to your notes taken on that date in naming the persons that he had named?

~~A Yes, sir.~~

Q May I see those notes, please?

A Yes, sir.

SOL. STROUD: May it please the Court, I have no objection to Mr. Ferguson looking at that particular page. I don't think it is necessary for him to thumb through the note book.

THE COURT: All right. Look at that page.

(Witness hands notes to Mr. Ferguson.)

~~Q~~ Now <sup>I</sup> in the notes that you referred to, <sup>I</sup> did you make <sup>not</sup> any date, any notation of the date that you talked with the witness about the photographs?

~~A I did not.~~

~~Q~~ <sup>I am</sup> Then do I understand that you are recalling independently what the date was that you made those notations?

~~A~~ Yes, sir. You asked me. I told you that I couldn't give you an exact date, but you asked me was it after the 17th, and I said yes.

Q Let me be sure you understand me. I think Mr. Stroud asked you if when you talked to the witness on the 18th of February in Goldsboro you made notes of persons that he mentioned.

A Yes, sir.

Q Now I am asking you if the notes that you referred to for that date indicate the date that you made the notes on.

A No, sir.

~~Q~~ Did you make any notes at the time <sup>not</sup> you talked to him about the pictures, at the time you exhibited the pictures to him?

~~A~~ No, sir.

~~Q~~ Would I be correct if I said that <sup>in</sup> order for you to have shown him mug shots of the defendant James McKoy, <sup>it</sup> would have had to have been after James McKoy was arrested on these charges. Is ~~that~~ correct?

~~A~~ Yes, sir.

~~Q~~ And <sup>Mr.</sup> in order for you to have shown him mug shots of the defendant Ann Shephard it would have had to have been after she was arrested. Is ~~that~~ correct?

~~A~~ Yes, sir.

Q And in order for you to have shown him mug shots of Willie Vereen that would have had to have been after