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Q Did they have a siren on them?

A Now we were running a lot at that time without that, I believe, in certain areas. I can't recall.

I am sorry.

~~Q~~ You don't recall whether the sirens were going or not?

~~A~~ No, sir.

~~Q~~ Where did you say your pumps stopped?

~~A~~ The officer in charge of my company put his truck right here. Right here. The alarm come here. He didn't want to put it too close. He spotted it right out in the street.

~~Q~~ The truck extended into the intersection?

~~A~~ Yes, sir; at an angle.

~~Q~~ Did you have some floodlights on the truck?

~~A~~ Yes, sir; ^{Added} The truck is equipped with various spot lights all over it.

Q Did you train the floodlights on the area where the fire was coming from in order to see how to get up there, direct your ladder and do what you had to do?

A All of that was taken care of. I was on the crew raising the ladder and the hose. Someone else was responsible for providing the light.

Q Yes, but somebody was flashing some light up there so you could see where you were going?

A I would think so. It was pretty dark at that time. The whole intersection seemed to be relatively dead. Won't a soul around but us 'til later on the policemen, you know.

~~A~~ Most of the lights were out in that intersection when you went there?

~~A~~ As best I can remember. I weren't too much concerned about it. When I seen the fire I put the ladder up.

~~Q~~ ~~Didn't seem to be too much happening except this little fire flickering?~~

~~A~~ I didn't see anybody up there around the intersection. No, there wasn't any people around. I did take notice of that because most of the time the fire truck goes it draws a crowd.

Q How many people altogether went with you to this fire?

A I really couldn't say. Well, I don't know how many was riding the truck. They run in different amounts. You at least have 4 on there; 3 to 4; and we were running a little heavy that night. We may have had 10 men. I don't know.

Q You mean you have 3 or 4 on each truck; sometimes when you are running heavy you might have 5 or 6 on a truck?

A Yes.

Q That is all we have.

MR. HUNEVOL: I have no question, your Honor.

I would make a motion for limited instructions as to Shephard.

THE COURT: Motion denied. (*Exception No. —*)

MR. HUNEVOL: Move to strike all the testimony

THE COURT: Motion denied. (*Exception No. —*)

MR. FERGUSON: We renew our motion to strike

the testimony of the witness. (*Exception No. —*)

SOL. STROUD: We call Lt. Core of the Wilmington

Fire Department.

RAYMOND DANIEL CORE, 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, sir.~~

~~A Raymond Daniel Core.~~

~~Q You are a lieutenant with the Wilmington Fire Department?~~

~~A Yes, sir.~~

Q ~~How long~~ ^{How long} have you been with the Wilmington Fire Department?

A 18 and a half years.

Q On the evening of Friday, February 5, 1971, ~~were~~ ^{I was} you on duty?

A Yes, sir.

Q As a fireman?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q On that evening did you have occasion to go to the intersection of 6th and Ann Street?

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A I did.

MR. FERGUSON: Move to strike.

THE COURT: Overruled. (Exception No. —)

Q What is located at that area?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Location of Mike's Grocery.

Q And what was your occasion for going into that area on Friday evening, February 5?

MR. FERGUSON: Object.

MR. HUENVOL: Object.

THE COURT: Overruled. (Exception No. —)

A We received an alarm at that location.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

B I was riding with District Chief R. L. Sanderlin at that time.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike

THE COURT: Denied. (Exception No. —)

Q When you arrived there, Lt. Core, at the intersection of 6th and Ann, what, if anything, was occurring at that time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A The ladder had been raised to this window. Firemen were inside and the Chief instructed me to go up and be sure all the fire was out; and I ascended the ladder, checked the area, and the fire was out; come on back down the ladder and that was it.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. (Exception No. —)

Q When you arrived in the area of Mike's Grocery store, what, if anything, did you hear?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A I heard some kind of reports coming from this vicinity of Nun Street.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What do you mean reports?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Gunfire.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And did you hear anything hitting around you?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

MR. FERGUSON: To the leading and on other grounds.

THE COURT: Don't lead him; objection overruled.

(Exception No. —)

A You could hear a sound of ricochet off the pavement.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. (Exception No. —)

Q And as you ascended the ladder, was there gunfire at that time?

A There was.

MR. FERGUSON: Objection to the leading and on other grounds.

THE COURT: Overruled. (Exception No. —)

Q What was your answer, please, sir?

A There was.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q How about during the time that you were descending from the building?

MR. FERGUSON: Objection, your Honor, he is leading this witness.

THE COURT: Don't lead him.

Q What was your answer?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A There was gunfire while ascending and descending the ladder.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. (*Exception No. 1*)

SOL. STROUD: State has no further questions of this witness. Tender him for cross examination, your Honor.

MR. FERGUSON: We move to strike his testimony.

THE COURT: Motion denied. (*Exception No. 1*)

CROSS EXAMINATION BY MR. FERGUSON:

Q You saw all the firemen out there when you went out there, Lt. Core?

A No, sir; most of them were inside of the building. The driver of the truck was there.

~~Q How many trucks did you see?~~

~~A I saw one.~~

~~Q The driver was still in the truck, you say, when you went inside the building upstairs?~~

~~A Yes, sir.~~

~~Q How long did you remain in the area?~~

~~A Approximately 15 minutes.~~

~~Q Do you know what time it was (when you got there?)~~

~~A *I was* I'd say 6:45.~~

~~Q~~ ^I Now you say you went in response to a call that ^I you got?

~~A~~ Yes, sir.

~~Q~~ And was ^{I was} it an emergency call to go there?

~~A~~ Yes, sir.

~~Q~~ ^I Did you go in an emergency vehicle?

~~A~~ Yes, I did.

~~Q~~ ^I Did you ^{not} have a blue light on?

~~A~~ No, sir.

~~Q~~ ^{or} Have a siren?

~~A~~ No, sir.

~~Q~~ Neither one?

~~A~~ Neither one.

~~Q~~ What kind of vehicle was it?

~~A~~ ^{It was the} Assistant Chief's car.

~~Q~~ ^{It was} An official car?

~~A~~ Yes, sir.

~~Q~~ Doesn't have an emergency flashes on it at all?

~~A~~ It has the equipment. It was not working.

~~Q~~ Were you accompanied by anyone?

~~A~~ Sir?

~~Q~~ Were you accompanied by ^{me} anyone to the scene there?

~~A~~ Yes, sir.

~~Q~~ Who accompanied you?

~~A~~ Assistant District Chief H. L. Sanderlin.

~~Q~~ Nothing further.

MR. HUNEVOL: Request for limited instructions as to Shephard.

MR. FERGUSON: Motion to strike.

THE COURT: Motion denied. *(Sustained the...)*

MR. HUNEVOL: Motion to strike.

THE COURT: Motion denied. *(Sustained the...)*

SOL. STROUD: May we approach the bench a minute?

THE COURT: Yes, sir.

(Conference at the bench.)

SOL. STROUD: Your Honor, the State will call Det. Fredlaw.

CLARENCE FREDLAW, called as a witness for the State,

being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

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

~~A~~ Clarence Fredlaw.

~~Q~~ And you are a Detective with the Wilmington Police Department?

~~A~~ Yes, sir.

~~Q~~ How long have you been a member of the Wilmington Police Department?

~~A~~ About 8 and a half years.

~~Q~~ For what period of time have you been a Detective

with the Wilmington Police Department?

A About three ^{years.}

Q Det. Fredlaw, were you on duty on the evening of Friday, February 5, 1971?

A Yes, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Objection.

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

Q On that evening did you have occasion to go into the vicinity of 6th and Ann Street in Wilmington, North Carolina?

A Yes, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

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

Q What was your occasion for going to the vicinity at that time?

MR. HUNEVOL: Objection.

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

A As a result of radio traffic, Det. Williams and myself were working together. We went to the 6 hundred block of Ann Street. We made our approach from the east. We came from 7th towards 6th and we parked on the north side of the street in the

6 hundred block of Ann.'

Q Would you show where you parked?

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

A (Pointing) We made our approach from the east when we came, and we parked our car about along here.

~~Q Then where did you go?~~

A We got out of the car, and we could hear gunfire. Along Ann Street there is a row of houses that face and that don't show on the diagram. And we heard gunfire coming from this area in here. Det. Williams and myself were out of the car at that time. We started to -

MR. BALLANCE: Object.

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

A We started to go between these houses, and the gunfire was so heavy we decided against it. So we came down towards the intersection.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

A Det. Williams came across the street over here,

and I stayed on this side of the intersection,
on the east side of the intersection.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Then what, if anything, occurred or did you observe,
please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A There was a patrol car at the intersection. The
patrol car was, as I recall it, somewhere right in
here, right in the intersection headed south.
(Pointing) There was gunfire in the area and shortly
thereafter I saw two officers come from up this
side of the intersection up in this area and come
back to the intersection, and the car was removed.
The Patrol car was removed.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q At the time you arrived, had the firemen left?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A They had gone; yes, sir.

Q Could you tell what type gunfire it was that you were hearing?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A It sounded like .22 -

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q .22 caliber?

A .22 caliber.

MR. FERGUSON: Objection; move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Objection overruled; motion to strike denied. *(Exception No. —)*

A And occasionally something heavier than .22.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Exception No. —)*

Q After the officers returned to their car and left, what, if anything, did you do?

MR. FERGUSON: Object.

MR. HUNEVO: Objection.

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

A We left the area at that time and went back out -
I am not sure which street we would have gone to,
but it would have been either Orange or 5th Street.
And we continued patrolling that area for a short
time, and then we returned to 6th and Ann to in-
spect Mike's Grocery.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Objection No. —)*

Q At the time you returned there, was there any gun-
fire?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A You'd hear a shot just once in a while, but it
wasn't nearly as heavy as when we first went in;
but you'd hear a shot every now and then.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Objection No. —)*

Q Why had you not inspected Mike's on the first oc-
casion for your being there that evening?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A After our personnel got out of the area we felt it unsafe for us to stay any longer, and we left.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

THE COURT: Motion denied. *(Exemption No. 1)*

Q When you returned to Mike's Grocery store on that evening -

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

Q To inspect the building there, what, if anything, did you find?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

MR. BALLANCE: Object.

A Found a firebomb on the 6th Street side of Mike's Grocery.

MR. HUNEVOL: Move to strike.

the court: Denied. *(Exemption No. 1)*

Q Did you find anything else at that time?

MR. HUNEVOL: Objection.

MR. FERGUSON: Object.

THE COURT: Denied. *(Exemption No. 1)*

A We found a bottle and a rag.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exemption No. 1)*

Q And that is other than the firebomb that you described?

A Yes, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. (Exception No. —)

Q The firebomb that you found there, would you describe it, please?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A It had been scorched and burned, and we took it and we put it into a plastic bag. We had some plastic bags in the car; and the one that was broken we put it into the plastic bag.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q And would you describe the other bottle you found there, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A The other bottle was a flat pint sized bottle.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

A Pint; and there was also a rag.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

SOL. STROUD: Your Honor, may I approach the bench just a minute?

THE COURT: Yes.

(Conference at the bench.)

(Sol. Stroud left the courtroom briefly.)

(State's Exhibit "48" and "49" marked for identification.)

Q Det. Fredlaw, I hand you what has been marked for identification as State's Exhibit number "48" and ask if you can identify this, please, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Objection.

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

A Yes, sir.

~~Q What is it?~~

A This is the broken bottle that I picked up on the 6th Street side of Mike's Grocery on the evening

in question.

MR. FERGUSON: Move to strike.

THE COURT: Denied. *(Exemption No. 1)*

Q And Det. Fredlaw, I hand you what has been marked for identification as State's Exhibit number "49" and ask if you can identify that, please, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Exemption No. 1)*

Q What is it?

A This is the unbroken bottle and rag that I found on the 6th Street side of Mike's Grocery on the night in question.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exemption No. 1)*

SOL. STROUD: State move these two items be admitted into evidence as State's Exhibits number "48" and "49".

MR. FERGUSON: We object to each. *(Exemption No. 1)*

THE COURT: Let them be admitted into evidence.

SOL. STROUD: May I pass them among the jury, your Honor?

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exemption No. 1)*

(Exhibits passed to the jury.)

Q Det. Fredlaw, on that Friday evening after you inspected Mike's and found these bottles, did you have occasion to patrol the area there?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q And during the time that you patrolled the area there, what, if anything, did you hear?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Constant gunfire.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q Could you tell what area the gunfire was in?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A The gunfire seemed to be concentrated in the area of 6th and Nun and the 3 hundred block of South 6th Street and the 5 hundred block of Nun Street closer to the intersection of 6th and Nun and in

this wooded area.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: DENIED. *(Exclusion No. —)*

SOL. STROUD: Th e State has no further questions of this witness. We'd like to reserve the right to recall him at a later time for other testimony.

CROSS EXAMINATION BY MR. FERGUSON:

~~Q~~ ~~What time did you say it was approximately when you arrived in that area, Det. Fredlaw?~~

~~A~~ It was sometime, as I recall it, after 7 P M, sometime after 7.

~~Q~~ ~~Yes, sir; and how long approximately did you stay out there?~~

~~A~~ We didn't stay very long: I would say 5 to 7 minutes or 5 or 10 minutes at the most.

~~Q~~ ~~You said *(A)* after that you patrolled the area for a while. How long did you patrol the area?~~

~~A~~ We patrolled the area until sometime after midnight.

~~Q~~ Well did I understand then that when you said a moment ago you stayed 5 or 10 minutes you are talking about this 6th and Ann Street area?

~~A~~ Yes, sir; right at the intersection of 6th and Ann

and we only stayed 5 or 10 minutes; but the entire area itself I didn't get off that night until sometime after midnight.

Q Did you make any arrests that night?

A ~~No, sir; I did not.~~

Q You were aware, were you not, that several white people were arrested for going around in cars armed to tear up the community?

A I don't know which night, but I do know they were arrested; yes, sir.

~~Q~~ It could have been Friday night as far as you know?

~~A~~ ~~Could have been.~~ I could check and find the exact night. I don't recall exactly which night it was.

~~Q~~ It was some night during this period, say from February 3 and 4 up through February 6 or 7?

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

Q And some of them were arrested in the area not too far from the two block area bounded by 5th Street on the west, 7th Street on the east - well, let's say 8th Street on the east, Ann Street on the north, and Church Street on the south?

A The ones that I recall were arrested on South Third Street in the 11 hundred block, which would be about 8 to 10 blocks from this immediate area.

Q Do you recall the direction that they were going in when they were arrested?

A South away from this area; yes, sir.

Q Do you know where they were coming from when they were arrested?

~~A Yes, sir.~~

~~Q Do I understand you to say they were going south on Third Street?~~

~~A Yes, sir. That would be back in this direction. South on Third would be two blocks west of 5th and then in this direction.~~

Q Now was there a state of emergency in effect on Friday night in Wilmington?

A Really, Mr. Ferguson, I don't recall if the state of emergency was on or not without checking my notes. I know there was a state of emergency to clear it. I don't recall whether it was Friday night or not.

~~Q I don't think~~
Was there a curfew in effect on Friday night?

~~A I don't think so, no, sir.~~

~~Q I don't think~~
Was there a curfew in effect on Thursday night?

~~A No, sir; I don't think so.~~

Q You were aware of efforts by certain persons or groups there in the community to have a curfew

declared, were you not?

A I had learned of this: yes, sir.

Q And these efforts were rebuffed by the City authorities there, and they chose not to declare a curfew because of a state of emergency?

SOL. STROUD: Objection.

THE COURT: Sustained as to what the City authorities did. *(Explain this...)*

Q As a result of the efforts of any people who were trying to get a state of emergency declared or a curfew declared, was a curfew declared on Friday night?

SOL. STROUD: Objection.

THE COURT: Objection to the form sustained. *(Explain this...)*

Q You say you have some notes which you might refer to to determine whether or not a state of emergency or curfew was in effect on Friday night?

A I can check at the station. I don't have personal notes. I would be able to check at the station and should be able to determine.

~~Q Now do you know whether or not a curfew was in effect on Saturday, February 62~~

~~A I don't believe there was.~~

Q Know whether a state of emergency had been declared on Saturday?

A I don't think so.

Q MR. FERGUSON: We have no further questions at this time. Reserve the right for further cross examination.

MR. HUNEVOL: I would request limiting instructions as to Shephard.

THE COURT: Motion denied. *(Shephard, N. ---)*

MR. HUNEVOL: We move the testimony of this witness be stricken from the record with reference to Shephard.

THE COURT: Motion denied. *(Shephard, N. ---)*

MR. FERGUSON: We move to strike the testimony also.

THE COURT: Motion denied. *(Shephard, N. ---)*

SOL. STROUD: I'd like to have the right to call him at a later time for further testimony.

THE COURT: Yes, sir.

SOL. STROUD: May we approach the bench, your Honor?

THE COURT: Yes, sir.

(Conference at the bench.)

THE COURT: Ladies and gentlemen, we are going to have a short recess. I want everyone else in the court to remain seated while the jury

is going to their room. We'll take about a 10 minute recess.

(The Court recessed from 3:15 until 3:33 P M.)

THE COURT: Bring the jury in.

(The jury returned to the jurybox.)

SOL. STROUD: State will call Det. R. C. Henderson, your Honor.

R. C. HENDERSON, called as a witness for the State,

being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD):

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

~~A~~ R. C. Henderson

~~Q~~ And you are a Detective with the Wilmington Police Department?

~~A~~ Yes, sir, I am.

~~Q~~ How long have you been a member of the Wilmington Police Department?

~~A~~ Since 1965.

~~Q~~ How long have you been a detective?

~~A~~ A little over a year.

~~Q~~ In February - strike that. On the evening of Friday, February 5, 1971, did you have occasion to be in the vicinity of 6th and Ann Street?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I did.

Q What is located on the corner of 6th and Ann, if you know?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Mike's Grocery was located on it at that time.

Q And what was your occasion for being in this vicinity on that particular evening?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A An alarm fire at that location; gunshots in the area.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. (Exception No. —)

Q What was happening there when you first arrived there at the intersection, if anything?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A When I arrived there with officer Shaw the Fire

Department truck was already there along with several uniformed cars. We arrived in the five hundred block of Ann Street, and we heard gunfire coming from the area in front of Mike's Grocery, which would be in the three hundred block of South 6th.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Exception No. 1)*

Q Could you tell what type of gunfire it was?

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Exception No. 1)*

A It sounded like small caliber firearms; rifles, .22 rifles probably; pistol.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exception No. 1)*

Q What, if anything, did you observe about the building of Mike's Grocery store at that time?

MR. HUNEVOL: Objection. *(Exception No. 1)*

A Smoke coming out of the front of it.

MR. HUNEVOL: Motion to strike.

THE COURT: Motion to strike denied. *(Exception No. 1)*

Q What, if anything, occurred then, please, sir?

MR. HUNEVOL: Object.

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

A With the gunshots going off Officer Shaw and myself saw Officer Gurganus and, I believe, Chipps, at that location. They stated they were receiving gunfire from the block area in front of Mike's. Shaw and myself got back into our car, backed out to 5th Street and went down 5th Street to Nun. We then proceeded up Nun Street east almost to the corner of 6th and Nun and pulled to the curb. As we stopped we heard what sounded like a shotgun blast and felt an impact on the vehicle.

~~Q~~ You what?

~~A~~ Felt the impact of something hitting the vehicle. Something hit.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

THE COURT: Motion to strike denied. *(Exception No. —)*

Q Were you with a uniform patrol car?

MR. FERGUSON: Object.

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

A Yes, sir; I was.

Q Would you describe a uniform patrol car?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Not sure of the model; '69, '70 or '71; blue and white with the lights on top; the decals on the door showing City of Wilmington; spot lights on it.

Q After you heard the gun blast and felt the impact, what, if anything, did you do?

MR. HUNEVOL: Object.

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

MR. FERGUSON: Object.

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

A We heard the blast and felt the shots or heard the shots hit the car. We both hit the seat.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Exception No. —)*

Q Then what, if anything - ?

MR. HUNEVOL: Objection.

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

A We waited a few seconds. At that time we didn't hear anymore gunshots or hear any hit the car. Put the car in reverse, backed about half way down the block.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

THE COURT: Motion to strike denied. *(Exception No. —)*

Q Now would you show on the diagram there where you were initially and where you went to at the

time you received the gun blast?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exhibit No. 1)*

A. When the original call came in by radio, we proceeded, if I remember correctly, we came in 5th Street from the south heading north and came up east on Ann Street to just back of where Mike's Grocery is shown here. The fire truck was sitting out in this area. We parked our car behind the fire truck. We got out of the car. At this time we were hearing gunshots; and the officers were in this area (Indicating) told us they were receiving gunfire from this area in here.

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exhibit No. 1)*

A. This is the way the shots sounded to us. We got back into the car, backed back out into the intersection, turned around, proceeded south on 5th to Nun, east on Nun to maybe 25 to 40 feet from the corner, pulled up to the curb; and just as we stopped we heard the shotgun blast and heard the shot hit the front of the vehicle.

MR. FERGUSON: Move to strike that response.

MR. HUNEVOL: Motion to strike.

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

~~Q~~ ^{*00-00*} ~~Now were you~~ in uniform at this time?

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

Q Now when you were there at Mike's Grocery store on 6th Street before you went around to 6th and Nun, as you have described, did you see any firemen or fire equipment there on 6th Street side of Mike's?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A No, sir; I never got around to the front of Mike's. I stayed in the area of the Ann Street side. I don't know as I ever got by the side of Mike's toward the front or toward the corner.

Q After this did you recover anything from your vehicle in connection with this incident?

A Yes, sir; I did.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

Q What, if anything, did you recover?

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

A Recovered some shot from the air conditioner dial

in the front of the radio.

MR. FERGUSON: Motion to strike.

THE COURT: Denied. (Exemption No. —)

Q Do you have that?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exemption No. —)

A Yes, I do.

(State's Exhibit "50" marked for identification.)

MR. FERGUSON: We are objecting to whatever those items are the Solicitor is walking around with.

THE COURT: Objection overruled. (Exemption No. —)

Q Det. Henderson, I hand you what has been marked for identification as State's Exhibit number "50", and ask if you can identify this, please, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

A Yes, sir; these are shot I removed from the front of the vehicle we were in at the time it was shot.

THE COURT: Overruled. (Exemption No. —)

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exemption No. —)

SOL. STROUD: State moved that these objects be admitted into evidence as State's Exhibit number "50".

MR. FERGUSON: Object.

THE COURT: Allowed. (*Exhibit No. 50*)

MR. FERGUSON: We object to that, too.

THE COURT: Overruled. (*Exhibit No. 50*)

SOL. STROUD: May I pass these to the jury?

THE COURT: Yes, sir.

(State's Exhibit "50" passed to the jury.)

SOL. STROUD: State has no further questions of this witness. Tenders him for cross examination.

MR. BALLANCE: Your Honor, we move to strike the testimony of this witness.

THE COURT: Motion denied. (*Exhibit No. 50*)

CROSS EXAMINATION BY MR. BALLANCE:

~~Q Mr. Henderson, can you tell us what time it was that you arrived at the scene of 6th and Ann Streets, as you have testified?~~

A I don't know the exact time. It was in the area of 7 P M give or take a few minutes either way.

~~Q How far did you have to come to reach that point,~~

~~the point of 6th and Ann?~~

~~A~~ I don't remember the exact location when we received the call to go into that area. However, we were assigned to work an area of approximately five blocks wide by, I believe 13 blocks long.

Q Was that anywhere near this area that you are talking about?

A It included this area.

~~Q~~ ~~So you weren't (over five blocks away?)~~

~~A~~ I don't believe we would have been, no.

~~Q~~ ~~What time did you~~ receive the call that there was a fire at that location?

~~A~~ I don't know the exact time.

Q And what period of time did you spend at the two locations that you have described, 6th and Ann and 6th and Nun?

A The first location at 6th and Ann probably wasn't there over 5 minutes at the most. In the area of 6th and Nun we were at the corner where the shot hit the car approximately 30 seconds probably. We backed up about half way the block and sat there about 3 or 4 minutes. The car sat there. We got out of the car. At that time we pulled back out of the area.

~~Q~~ ~~That is all.~~

MR. HUNEVOL: Your Honor, I make a motion for limited instructions as to Shephard and motion to strike the testimony.

THE COURT: Motion denied. *(Exception No. —)*

SOL. STROUD: The State will call Det. Sarg. Genes.

SONNY GENES, called as a witness for the State, being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

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

~~A Sonny Genes.~~

~~Q Are you a Detective, with the Wilmington Police Department?~~

~~A Detective Sargeant, yes, sir.~~

~~Q And how long have you been a member of the Wilmington Police Department?~~

~~A Approximately 15 years.~~

~~Q How long have you been a Detective Sargeant?~~

~~A Right at 4 years.~~

~~Q How were you on duty on the evening of Saturday, February 6, 1971?~~

~~A Yes, sir, I was.~~

Q On that evening did you have occasion to go to the

vicinity of 5th and Nun Street?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir; I did.

Q What was your occasion for going there, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A A call for help came in from another car stating they were under heavy gunfire and responded to the system.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q As a result of that call, what, if anything, did you do?

MR. FERGUSON: Objection.

THE COURT: Motion to stroke as to what the other car said is allowed. Members of the jury, you will not consider the testimony as to what the person who called in said.

SOL. STROUD: Strike my last question.

Q When you arrived in the area of 5th and Nun Street

on that Saturday evening, what, if anything, was happening at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. 1)*

A It was dark and very quiet at the time I arrived.

Q And did you see anyone else at this time?

A Yes, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Exception No. 2)*

A There were other police cars in the area as well as detective unmarked cars.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Exception No. 3)*

Q Did you see any police officer at this time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. 4)*

A Yes, sir; I did.

Q Where were they in relation to their car?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. 5)*

A Down behind the car.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Skeptical)*

Q In What direction were they facing?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Skeptical)*

~~Q~~ If you know.

A Well it was cars in the intersection that were facing east up Nun Street, facing the direction of Nun. There was a uniformed patrol car in the four hundred block of South 5th Street parked headed north and this is where we pulled in behind.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Skeptical)*

Q Did you get out of your vehicle?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Skeptical)*

A Yes, sir; I did.

Q Where did you go, please?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Skeptical)*

A Immediately behind a tree between the sidewalk and the street on the east side of the street.

MR. FERGUSON: Move to strike.

MR. HUEEVOL: Move to strike.

THE COURT: Denied. *(Exemption No. ---)*

Q Would you point that out on the diagram, please, sir?

MR. FERGUSON: Object.

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

A Yes, sir.. (Points) Right about this area right in here.

Q Now that is the plaza in the middle of the street there?

MR. FERGUSON: Object.

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

A Be right in here, this area.

MR. FERGUSON: Move to strike.

THE COURT: Denied. *(Exemption No. ---)*

A Right at the curb line.

Q What, if anything occurred at that time, please?

MR. FERGUSON: Object.

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

A I was there approximately 3 minutes before I was shot in the left thigh.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Exemption No. 1)*

Q And how many times were you shot?

A Once.

MR. FERGUSON: Object.

THE COURT: Overruled. *(Exemption No. 1)*

Q In what direction were you facing when you were shot?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A Facing towards the north, facing in this general direction. (Indicating)

Q And what leg were you shot in?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A Left upper thigh.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. *(Exemption No. 1)*

Q And after being shot, what, if anything, occurred, please?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exemption No. 1)*

A. I was placed in the car by Det. Russell, Officer Todd and Officer Robins and carried to the New Hanover Memorial Hospital where I underwent surgery.

MR. FERGUSON: We move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Suggestion No. 1)*

SOL. STROUD: I have no further questions of this witness, your Honor. Tender him for cross examination.

MR. BECTON: If the Court please, we move to strike the testimony of Mr. Genes.

THE COURT: Motion denied. *(Suggestion No. 1)*

CROSS EXAMINATION BY MR. BECTON:

~~Q Mr. Genes, are you referring to Saturday night, February 6 or Friday February 5, 1971?~~

~~A Saturday night, February 6.~~

~~Q Would you tell me again what time it was when you got to the intersection of 5th and Nun?~~

~~A Approximately 9:45 P. M.~~

~~Q And who, if anyone, ^{all} was with you at the time you arrived?~~

~~A Det. W. F. Russell.~~

Q ~~Was there any~~ ^{I were} other officer there at that intersection at the time ~~you~~ ^I got there?

A ~~Yes, sir; there was.~~


Q ~~Who were they?~~

A ~~Det. Brown, Det. Bloomer, Det. Fredlaw, Sarg. Hobbs, Officer Todd, Uniformed Officer Robins and there may have been others~~ ^{there.}

Q At the time you were shot how close were you to the apartment house on the southeast corner of 5th and Nun?

A (Points)

Q ~~Yes, sir; how far were you to that apartment?~~ ^{(1) from}

A ~~I was~~ ^{I was} Approximately 15 feet 

Q ~~Now does that apartmenthouse front on 5th Street, or does it front on Fun Street?~~ ^{to}

A ~~5th Street.~~

Q ~~Were you in the front of the house? Is the front on 5th Street?~~ ^{I was}

A ~~Yes, sir.~~

Q ~~You stated that you were beside a tree. Was the tree between you and the apartmenthouse?~~ ^{I was} ^{me}

A ~~It was.~~

Q How far were you from the roadbed of 5th Street; surface of the road?

A Two or three feet.

Q How far south of the intersection of 5th and Nun were you; that is, how far were you from the roadbed of Nun Street?

A Approximately 30 feet.

~~Q Did I understand you to say that you were facing north toward Nun and Ann Street at the time you were shot?~~ *I was*

~~A Yes, sir.~~ *I was*

Q Nothing further.

THE COURT: Mr. Hunevol?

MR. HUNEVOL: I have no questions. I have a motion for limiting instructions and motion to strike all testimony of Officer Genes.

THE COURT: Motion denied. *(Exception overruled)*

MR. FERGUSON: We move to strike the testimony also.

THE COURT: Motion denied. *(Exception overruled)* Anything further for the State?

SOL. STROUD: No, sir. Your Honor, may Det. Genes and Det. Henderson be excused?

THE COURT: Yes, sir.

SOL. STROUD: State will call Det. Hollifield, your Honor.

D. A. HOLLIFIELD, 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, sir.~~

~~A~~ D. A. Hollifield.

~~Q~~ You ^{Jama} are Detective with the Wilmington Police Department?

~~A~~ Yes, sir.

~~Q~~ How long have you been a member of the Wilmington Police Department?

~~A~~ Almost 8 years.

~~Q~~ How long have you been a detective?

~~A~~ Almost three ^{years}.

Q Det. Hollifield, were you on duty on the evening of Saturday, February 6, 1971?

A Yes, I was.

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception taken)

Q On that evening did you have occasion to be to the area of 5th and Nun Street?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception taken)

A Yes, sir.

Q Would you describe what occurred when you arrived

in the area of 5th and Nun Street and what you observed at that time, please?

MR. FERGUSON: Objection.

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

A Yes, sir; when I arrived along with my partner at 5th and Nun Street -

Q Who was your partner?

A Det. Monroe. Detective car was parked here. (Indicating) I don't recall who was in it. I believe it was Det. Fredlaw and his partner. There was a firebomb burning here. Then my partner came in, pulled up here to block it off because there was gunfire from down at 6th and Nun Street. The fire finally went out before we got out of the car to extinguish it. Shots started hitting our car. In the meantime, this car had backed out and had parked here. Me and my partner backed out and also parked on 5th Street.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exemption No. ---)*

Q Could you tell where the gunfire was coming from?

MR. FERGUSON: Objection.

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

A It was coming from the area of 6th and Nun Street.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Sustained)*

~~Q What type of vehicle were you in at the time, please?~~

~~A I was in the Plymouth; green.~~

Q Was it a detective vehicle?

A Yes, sir; it was.

MR. FERGUSON: Object; move to strike.

THE COURT: Denied. *(Sustained)*

Q How were you attired at the time, please?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Sustained)*

A Had a flack jacket on and helmet.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: DENIED. *(Sustained)*

Q When/^{you}backed out of that area behind the house at 5th and Nun, what, if anything, occurred at that time, please?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Sustained)*

A We got out of the car and was crouched behind the

car on the side of the car. A loud crack came from up 5th Street. A call from this side said Sarg. Genes had been hit at that time. We all pull out of the area.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Exception No. 1)*

Q Now, Det. Hollifield, after this and later in the evening on that Saturday, February 6, 1971, did you have occasion to go into the vicinity of 6th and Ann Street?

A Yes, sir; I did.

MR. BECTON: Object.

THE COURT: Overruled. *(Exception No. 2)*

Q Where did you arrive in that general vicinity later?

MR. BECTON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Exception No. 3)*

A 6th and Orange Street.

Q Where is that in relation to this diagram?

A (Points)

Q At the time you arrived there what, if anything, did you observe with regard to the intersection of 6th and Ann Street.

MR. BECTON: Object.

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

A We had received information that Mike's was on fire.

MR. FERGUSON: Motion to strike.

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

A We went to check to see if it was on fire.

Q Was ~~it~~ ^{it} on fire when you arrived?

A ~~Yes, sir, it was.~~

Q Which side of the street, 6th Street, were you on?

A (Indicating) This side.

Q And during the time that you - Strike that. When you first arrived there what, if anything, could you hear upon arrival?

MR. HUNEVOL: Objection.

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

A There was small caliber gunfire.

MR. HUNEVOL: Move to strike. *(Exception No. —)*

Q Could you tell in what direction it was coming from?

MR. HUNEVOL: Object.

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

A It was coming from this area. (Indicating)

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q Did you observe anything in that area?

A I didn't see anything. You could hear gunshot and see flashes, but was unable to see anybody.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q While you were there that evening did you have occasion to observe police officers on the east side of 6th Street?

MR. HUNEVOL: Objection.

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

A Shortly after we arrived other officers came to the scene also.

Q Did you observe any officers on the east side of 6th Street across from Mike's?

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q What did you observe at that time?

A Several officers were on this side of the street going from house to house. It was Officer Shaw, Officer Williams and Officer Wollak, I think it was. I am not sure.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exception No. —)*

Q During this time what, if anything, did you observe them doing?

MR. HUNEVOL: Object.

MR. BECTON: Object.

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

A They were going from house to house.

Q How about after that?

MR. HUNEVOL: Object.

MR. BECTON: Object.

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

A I was going from this corner of this church, this alley to see if anybody had come through here to do any shooting.

MR. BECTON: Move to strike; not responsive.

THE COURT: Motion denied. *(Exception No. ---)*

Q Did you later after observing them there on the east side of 6th Street going from house to house, did you have occasion to observe Officer Shaw and Williams after that?

MR. FERGUSON: Object; leading.

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

A Yes, sir; I did.

~~Q What were they doing?~~

~~A They were dragging a subject from 6th and Nun Street.~~