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hospital?

A Yes, sir.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

Q Would you describe it, please?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A It was a single barrel .23 gas shotgun and around the stock, the small part of the stock it had some black tape and the end of the barrel did not have the sight on it where the sight ball was. It was out, and it was cracked.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike, your Honor.

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

Q At the hospital did you have occasion to examine the chamber of that shotgun?

A Yes, sir.

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I broke the shotgun down or opened it up; and there was a shell in the chamber with a slight indentation into the firing cap.

MR. HUNEVOL: Move to strike.

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

Q And what did that slight indentation mean to you?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A That it was evidently a misfire.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What do you mean by a misfire?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A The firing pin had struck the cap, but had not set it off; not caused the shell to explode.

MR. HUNEVOL: Move to strike.

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

Q Officer Williams, - Sarg. Williams, I hand you what has been received in evidence as State's Exhibit number "15" and ask if you can identify this, please.

MR. BALLANCE: Objection.

MR. HUNEVOL: Object.

THE COURT OVERRULED. (*Exception No. —*)

A Yes, sir; this is the shotgun that I picked up laying

next to the body of the black male, Steven Corbett.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Sarg. Williams, I hand you what has been received in evidence as State's Exhibit number "57" and ask if you can identify that, please.

MR. HUNEVOL: Objection.

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

A Yes, sir; this is a picture of the shotgun shell in the shotgun with an indenture on the firing cap.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And I hand you what has been received into evidence as State's Exhibit number "58" and ask if you can identify that, please.

MR. HUNEVOL: Object.

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

A This is a shotgun shell that's taken from the shotgun the one that's in the photograph there with the indenture.

MR. HUNEVOL: Move to strike.

MR. BALLANCE: Move to strike.

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

Q After you were at the hospital did you again have occasion to go back into the area of 6th and Ann Street?

MR. BALLANCE: Objection.

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

A Yes, sir; I did.

Q And where did you go on this occasion?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A When I returned to the scene I came down and went up Ann Street to this area where the firemen were here. (Indicating)

~~Q What was that?~~

A The firemen, they had the truck and some of the firemen were here in this area. I came up in here. (Pointing)

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What was the condition of the fire at Mike's or any other building at that time?

MR. HUNEVOL: Objection.

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

A Mike's was burning or just about destroyed by fire, and this house had started burning here.

MR. BALLANCE: Move to strike.

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

Q When you arrived in that area what, if anything, did you hear?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A There was still some gunfire.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Exception ---)*

Q And could you tell what type of gunfire this was that you were hearing?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception ---)*

A It sounded like small arms or something, maybe a .22 or somewhere around in there, a small caliber .25 or .22

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Exception ---)*

Q And what, if anything, did you do upon arriving or returning to that area?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A Well, some of the firemen went back into this area right between this house which is the first house right behind Mike's and there was a shed, a tin shed back out in here; and they were attempting to put water on these houses back in here, both of these houses; trying to keep them from burning. They were attempting to put water on these while received some fire from this area back in here when they would go into this metal building or the edge of this house. We received fire there and pulled out and came back out into the street because of the gunfire and all. We could hear something hitting the metal building. Sounded like maybe shotgun pellets or .22.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Sometime after that, did the gunfire subside?

A Yes, sir.

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

~~Q And were the firemen able to get in this and fight the fire?~~

~~A~~ They were able to get in and fight the fire. Both the houses were on fire, were burning quite badly before they could get in there to fight the fire, sir.

Q During the time you were there on the second occasion when you went back into the tin garage area, did you have occasion to fire your weapon?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A No, sir; I did not. I could not tell or I could not see exactly where the fire was coming from or who was firing. I couldn't see anybody to shoot at.

Q Did you see any other police officers during this time firing their weapons?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A I saw some there, but I did not actually see them firing.

SOL. STROUD: Your Honor, the State has no further questions of this witness. Would like to reserve the right to call him at a

later time for additional testimony.

MR. BALLANCE: We move to strike the testimony of Sarg. Williams, if the Court please.

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

CROSS EXAMINATION BY MR. BECTON:

~~Q Sarg. Williams, did I understand you to say that~~
I did take
~~you took State's Exhibit "15", the rifle, to the~~
hospital with ^{*me,*} you?

~~A Took who, sir?~~

~~Q State's Exhibit "15", the shotgun, to the hospital~~
with you.

~~A Yes, sir.~~

~~Q What did you do with it once you got to the hospital?~~

~~A~~ Lt. Lewis came on out there, and I turned it over to him. Lt. Lewis. I had it broke open, and I turned it over to him. He kept it there at the hospital with him.

~~Q~~ Have you seen State's Exhibit "15" since that time prior to coming to court?

~~A~~ Yes, sir; *it* was in the - We kept it upstairs in the Detective Division and turned it into the evidence locker downstairs where it was locked up and kept.

~~Q~~ Do you know whether or not it remained in the evidence locker from that time until the time of the

trial?

A I didn't keep up with it, sir.

~~Q Do you know who did keep up with it?~~

~~A~~ It was in the keeping of the Records Division. If they let it out, I don't know about it.

~~Q~~ Who (leads up that Records Division that ^{I am} you are referring to?)

~~A~~ Capt. Thompson.

Q Do you know whether or not any scientific tests or laboratory tests were run on State's Exhibit "15"?

A I believe there was some run. I am not sure. I am not familiar with all that was run on it.

Q Do you know who would know if tests were run on it?

A Yes, sir; I believe - I am sure Mr. Stroud would know and probably Capt. Thompson and Lt. Lewis.

~~Q~~ Have you ^{not} ever seen the results of any tests that may have been run on the State's Exhibit "15"?

~~A~~ No, sir; I have not seen it.

Q What time was it when you left the hospital?

A I don't remember, sir. It was somewhere after 10, I guess. It is just a guess, somewhere around in there.

MR. BECTON: Nothing further.

MR. HUNEVOL: Your Honor, I request limited

instructions as to Mrs. Shephard.

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

MR. HUNEVOL: Move to strike entire testimony.

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

MR. BALLANCE: We renew our motion.

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

THE COURT: Anything further?

MR. BALLANCE: Like to reserve the right to call him at a later time, your Honor.

SOL. STROUD: The State would call Det. Wollak.

MR. FERGUSON: We object to the testimony of this witness.

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

WILLIAM EDWARD WOLLAK, 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 William Edward Wollak.~~

~~Q 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 I joined the Department during September of 1970.~~

~~Q~~ In February of 1971, ^{I was} were you with the Department as a patrolman?

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

~~Q~~ A uniformed officer?

~~A~~ Yes, sir.

Q Now on the evening of Saturday, February 6, 1971, did you have occasion to go into the vicinity of 6th and Ann Street?

A Yes, sir, I did.

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

~~Q~~ ^{I was} Were you in uniform at that time?

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

~~Q~~ Where did you arrive in that area, please, sir?

A I pulled my car, uniformed car, came in from Orange and Ann Street and parked between Ann and Orange Street on 6th in about this vicinity here on the west side of 6th Street. (Indicating)

Q And upon arriving there, what, if anything, did you hear?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Sporadic gunfire.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Could you tell what type of gunfire it was?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A It sounded like small caliber fire.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Could you tell from what area it was coming?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A It sounded like the gunfire was coming from 6th Street, north down 6th Street towards our position.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Move to strike.

THE COURT: Denied. (Exception No. —)

Q At the time you arrived there, what was the condition of Mike's Grocery at that time?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A Mike's Grocery store was on fire.

Q Upon arriving what, if anything, did you observe in the three hundred block of South 6th Street?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A I observed an individual run from behind a tree about this vicinity here and run into the houses right in this area. (Indicating)

MR. BECTON: Move to strike.

THE COURT: Denied. (Exception No. —)

Q What, if anything, did you observe in the possession of that individual?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A He had a long object in his hand. That is the only thing I could tell.

Q Pardon?

MR. HUNEVOL: Move to strike.

MR. BECTON: Motion to strike.

THE COURT: Denied. (Exception No. —)

Q A long object?

A A long object.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q ¹ Did you have occasion upon arrival there to observe other officers in the vicinity?

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

Q ² Did you have occasion to observe Officer Williams and Officer Shaw?

A ~~Yes, sir.~~

Q ~~Where were they located?~~

A ~~When I first saw them they were near a house on this corner right here. There was a house on the corner and they were going up onto the porch.~~

Q Did you observe them across the street on the east side of 6th Street?

A Yes, sir; I did.

MR. BECTON: Objection.

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

Q What were Officer Williams and Officer Shaw doing at the time you observe them crossing the street?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A. When I observed them crossing the street after they had - one of them had crossed Ann Street (pointing) to the south side of the street; another one was on the porch. I went up on the porch after the second officer had crossed Ann Street to provide cover for him.

MR. BECTON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. *(Exception allowed)*

Q. What were they doing during that time?

MR. HUNEVOL: Object.

MR. BECTON: Object.

THE COURT: Overruled. *(Exception allowed)*

Q. That you were there providing coverage?

A. They were in the process of crossing the street.

~~Q.~~ They crossed in front of you. Is that correct?

~~A.~~ Yes, sir.

Q. Then you came over behind them?

A. Not immediately, sir. I stayed on the north side of the street.

Q. Could you observe what they were doing on the east side of 6th Street?

MR. BECTON: Objection.

THE COURT: Overruled. *(Exception allowed)*

A. They worked their way up to these houses here and

were working their way south going across porches.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q Did you have occasion to observe them again there at the corner of 6th and Ann Street?

MR. BECTON: Objection.

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

A Yes, sir.

Q What, if anything, were they doing at that time?

A They were bringing the body of the young, black male out from this area here down the sidewalk.

MR. HUNEVOL: Move to strike.

MR. BECTON: Motion to strike.

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

Q And where did they take the body?

MR. HUNEVOL: Objection.

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

A Around the corner to this vicinity right here.

MR. HUNEVOL: Move to strike.

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

Q What, if anything, occurred then, please?

MR. BECTON: Objection.

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

A I observed Sarg. Williams had his hand in the vicinity

of the individual's throat. There was quite a bit of blood coming out from between his fingers.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

A They called for an officer down here to ask them to radio for an ambulance.

MR. HUNEVOL: Move to strike.

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

A The three of us stayed there with the body on the ground and the ambulance came up to here (Indicating) and they screamed across the street to the officer here to tell the ambulance to cross 6th Street to where they could pick up the individual.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

A These officers yelled back that the ambulance driver would not cross 6th Street.

MR. HUNEVOL: Move to strike entire testimony.

MR. BECTON: Move to strike.

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

Q During that time and during the time prior to that, as they were dragging the body down the street, what,

if anything, did you hear?

MR. HUNEVOL: Objection.

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

A Sporadic gunfire.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q Did a police vehicle come there to pick up the body?

A Yes, sir, it did.

MR. BECTON: Objection.

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

Q What, if anything, occurred at that time?

A The vehicle came up the street and went to about this position then backed around to where the body was. Sarg. Williams and Officer Shaw and myself put the body in the back seat. Sarg. Williams handed me his issue shotgun, the police shotgun; and him and Officer Shaw departed for the hospital.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q During this time when you were there with the body and it was being placed in the car, did you have occasion to observe a non-police issue shotgun?

A Yes, sir.

MR. HUNEVOL: Objection.

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

A Yes, sir.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q Who had that?

MR. HUNEVOL: Object.

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

A Sarg. Williams had that in his possession.

MR. HUNEVOL: Move to strike.

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

Q After the vehicle left there with the body, what, if anything, did you do, please?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A I came to the corner right here *(indicating)* to provide cover for the Fire Department personnel who were here, and they were starting trying to work their way into this area to put out the fire.

MR. FERGUSON: Move to strike.

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

Q Where did you go then?

A After sometime I crossed the street to go to the church here. I crossed the street from the east side to the west side near the church.

MR. HUNEVOL: Move to strike.

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

Q Later in the evening did you have occasion to observe persons moving furniture out of houses on the west side of 6th Street?

MR. HUNEVOL: Objection.

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

A Yes.

Q During this time could you hear anyone down in the three hundred block of 6th Street yelling or saying anything?

MR. HUNEVOL: Objection.

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

A Yes.

Q What was that, please?

MR. HUNEVOL: Objection.

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

A They were yelling for the Fire Department that had started proceeding to private residences next to the store.

MR. BECTON: Move to strike.

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

Q Did you hear any other thing said at this time?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A Yes, sir; people were advised that the Fire Department would fight the fire if the sniping would stop.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Move to strike.

THE COURT: Motion to strike denied. (*Exception*)

Q After that did you have occasion to hear anyone else there in the three hundred block of 6th Street say anything or yell anything?

MR. BECTON: Objection.

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

A Yes, sir; they yelled up the street, just yelled in general, to stop shooting at the firemen and the police officers so they could put out the fires.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Motion to strike.

THE COURT: Motion to strike denied. (*Exception*)

~~Q~~ During the time that you ^{I was} were there did you ever fire a weapon?

~~A~~ No, sir.

Q And during the time that you were there did you

observe any other police officer firing weapons?
A Not that I can recall. It was hard to tell who was shooting. Had no targets.

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

MR. HARMON: Move to strike all the testimony of this witness.

THE COURT: Denied. *(Strike all)*

MR. HARMON: No questions.

MR. HUNEVOL: Request instructions for Shephard.

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

MR. HUNEVOL: Move to strike the testimony.

THE COURT: Motion to strike denied. *(Motion denied)* Anything further from the State?

SOL. STROUD: No, sir.

W. F. RUSSELL, called as a witness on behalf of the

State, being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

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

~~A Det. W. R. Russell.~~

~~Q You are a detective with the Wilmington Police Department?~~

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

~~Q~~ ^{How long} how long have you been a detective?

~~A~~ About two years.

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

~~A~~ A little over 13 years.

~~Q~~ ^{I was} Were you a detective on the evening of February 6, Saturday, 1971?

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

~~Q~~ On that occasion on that evening, did you have occasion to be at New Hanover Memorial Hospital?

MR. HUNIVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. *(Exception)*

A Yes, sir.

~~Q~~ What was your occasion for being there?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. *(Exception)*

A I took Sarg. Genes out there after he was shot.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Overruled. *(Exception)*

~~Q~~ During the time that you were there at New Hanover Memorial Hospital on that Saturday evening was

another subject brought into the hospital?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A Yes, sir; there was.

Q Who brought him in?

A MR. HARMON: Objection.

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

A Corbett. I don't remember his name, full name.

MR. HARMON: Move to strike.

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

Q His last name was Corbett?

A Yes, sir.

Q Do you know who brought him in?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. Just a minute. I overruled the objection. He hasn't got through with his answer and then I will hear you on your motion to strike. Go ahead.

Q What was your answer, please?

A Sarg. Jimmy Williams and Officer J. M. Shaw brought the subject to the hospital.

MR. HUNEVOL: Move to strike.

THE COURT: Just a minute, Mr. Solicitor. Motion

to strike is denied. *(Exception)*

Q To the emergency room at the hospital?

A Yes, sir.

MR. HUNEVOL: Object; move to strike, your Honor. I can't get these things in quick enough.

THE COURT: Just a minute. Now, Mr. Solicitor, when you pose another question, give counsel opportunity to make their objections and motions. Would you ask the question over again?

Q Did Officer Williams and Officer Shaw, did they bring the subject to the emergency room at New Hanover Memorial Hospital?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception)*

A Yes, sir.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Motion to strike denied. *(Exception)*

Q Now, and you were in the emergency room at that time?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: overruled. *(Exception)*

A Yes, sir.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Scepter M...)*

Q Now did you have occasion to search the person, the subject that was brought in there by Officer Shaw and Officer Williams?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. *(Scepter M...)*

A Yes, sir; I did.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Motion to strike denied. *(Scepter M...)*

Q And what, if anything, did you find?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. *(Scepter M...)*

A Four shotgun shells.

Q Where did you find them?

MR. HUNEVOL: Object.

THE COURT: Overruled. *(Scepter M...)*

A In a three-quarter length black coat that he had.

MR. HUNEVOL: Move to strike.

MR. HARMON: Motion to strike.

THE COURT: Motion to strike denied. *(Scepter M...)*

Q Did you recover other personal items also?

MR. HARMON: Objection.

THE COURT: Overruled. *(Supton 10-1-11)*

A Yes, sir; there was a billfold in his pocket with his personal papers, name, so forth, on it.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Supton 10-1-11)*

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

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

THE COURT: Motion to strike denied. *(Supton 10-1-11)*

MR. BALLANCE: No questions.

MR. HUNEVOL: Request limiting instructions as far as Shephard is concerned.

THE COURT: Motion denied. *(Supton 10-1-11)*

MR. HUNEVOL: Move to strike the entire testimony of Mr. Russell.. *(Supton 10-1-11)*

SOL. STROUD: May this witness be excused along with any other witnesses that have testified this morning?

THE COURT: Yes, sir.

SOL. STROUD: State will call Det. Fredlaw to the stand, your Honor.

THE COURT: Have you already been sworn?

DET. FREDLAW: Yes, sir.

MR. FERGUSON: We object to parading Officer Fredlaw back and forth from the stand. He

has already been up. (Exemption No. —)

SOL. STROUD: I object to comments of counsel.

THE COURT: Motion as to comments of counsel sustained. (Exemption No. —)

CLARENCE FREDLAW, recalled as a witness on behalf of the State, having already been duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

~~Q~~ ^{I am} You are a detective of the Wilmington Police Department?

~~A~~ Yes, sir.

Q Det. Fredlaw on the evening of Saturday, February 6, 1971, did you have occasion to be in the vicinity of 6th and Ann?

A Yes, sir; I was.

MR. BECTON: Objection.

THE COURT: Overruled. (Exemption No. —)

Q Where did you arrive in that area, please, sir?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. —)

A Officer J. S. Williams and I arrived together. We parked our car down here between Orange and Ann Street, and I came to this vicinity behind Union Baptist Church along with other officers; and Officer Williams across the street to the east side of the intersection there.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q What was the condition as to Mike's Grocery store at that time?

MR. BECTON: Objection.

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

A The grocery store was on fire at that time.

MR. BECTON: Move to strike.

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

Q Upon arriving there and observing the store, what, if anything, did you hear at this time?

MR. HUNEVOL: Objection.

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

A Gunfire in the area.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q Could you determine what type of gunfire it was?

MR. HUNEVOL: Objection.

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

A. It sounded like small caliber fire, .22 caliber, and occasionally heavier blast sounded like shot-guns.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q. Could you tell where the gunfire, what area it was coming from by sounds?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A. Yes, sir.

Q. Where?

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

A. The gunfire was coming from this area up towards 6th and Nun and from the east side of the three hundred block of South 6th Street.

MR. HUNEVOL: Move to strike.

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

Q At the time you hear the gunfire did you see anything up there on the east side of 6th Street?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Objection overruled. *(Exception No. ---)*

A When I first arrived the only thing I could see at that time was muzzle flashes up in this area. At the time I arrived it was rather dark in this area here from Nun on back on north towards the intersection of 6th and Ann .

MR. HUNEVOL: Move to strike.

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

~~Q While you were there did you also see Officer Shaw and Williams over on the east side of 5th Street after you arrived?~~

~~MR. HUNEVOL: Objection.~~

~~THE COURT: I didn't hear the question, Mr. Solicitor.~~

Q After you arrived there did you have occasion to see Officer Shaw and Officer Williams on the east side of 6th Street?

MR. HUNEVOL: Objection.

THE COURT: Objection overruled. *(Exception No. ---)*

A Yes, sir; I did.

MR. HUNEVOL: Move to strike.

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

Q What, if anything, did you observe about them at that time?

MR. HUNEVOL: Objection.

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

A At that time I was right to the north of the intersection of 6th and Ann. I saw Officer Williams and Officer Shaw on the east side of the intersection. I saw them make their way to these houses in the three hundred block of South 6th Street and then a short time later I saw them dragging a body down the sidewalk there, and they turned to the east, and they stopped right along here just east of the intersection at what would have been the north side of this house. (Indicating)

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q What, if anything, occurred then?

MR. HUNEVOL: Objection.

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

A They stayed there momentarily and at that time another police vehicle came in. When the police vehicle came in he pulled up here, momentarily

backed up, quickly pulled down to where they were. They put the body in the car and left. They left going east on Ann.

MR. BECTON: Move to strike.

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

Q After that will you describe what occurred, please?

MR. HUNEVOL: Objection.

MR. FERGUSON: Objection.

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

A By this time the fire was getting rather large, and it seemed to, when it got going real well in Mike's Grocery, it seemed to spread rather quickly; and it started illuminating this area up here somewhat; and after it started it seemed to spread very quickly to the other houses to the south of Mike's; and at this time you could see figures silhouetted in the light there; and I saw persons seemed to be moving back and forth across the street; and two or three of the persons I saw long objects in their hands that looked like rifles to me.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Move to strike.

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

Q During the time that the fire was spreading from Mike's to the other houses, what, if anything, did you hear?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Expletive)*

A When this was taking place and this area was being illuminated and you could see figures moving back and forth towards these houses and back, I heard a female voice say, "Put your guns back. Put your guns back." Said it two times. The voice came from up in this area. (Indicating)

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Objection overruled; motion to strike denied. *(Expletive)*

Q During the time that you were there and during the time that the fire was spreading to the other houses, as you have described, did you hear anything else?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Expletive)*

A I could hear gunfire; yes, sir.

MR. HUNEVOL: Move to strike.

THE COURT: Motion to strike denied. *(Expletive)*

Q Now did you have occasion to go over into the area of Ann Street there behind Mike's Grocery store?

A Yes, sir.

MR. HUNEVOL: Object.

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

MR. HUNEVOL: Move to strike.

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

Q Describe what occurred there, please.

MR. HUNEVOL: Objection.

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

A I made my way around to where the fire engine was by going behind the church. (Pointing) Behind the church there was an alleyway between the church and the house that was just to the north. Made my way around here several times to where the fire engine was; and at this time the firemen were trying to fight the fire from the rear of these houses by going between these houses here. They pushed the back out of a tin garage and came down into this area right here and were trying to put water on these two houses from their rear; and at this time there was still gunfire coming towards firemen from over in this area. They were trying to put water on this house, this house and also this one.

MR. HUNEVOL: Move to strike entire response.

MR. BECTON: Move to strike.

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

~~Q~~ Did you remain there until the fires were extinguished?

~~A~~ Yes, sir.

~~Q~~ And ^{was} during the entire time that you were there, ^{admitted} did you ever fire your weapon?

~~A~~ I did not.

~~Q~~ What type of weapon did you have?

~~A~~ I had a pump .12 gauge shotgun issued by the Department, and a snubnose .38 issued by the Department.

~~Q~~ During this time ^{and} did you ^{not} observe any other officer or law enforcement agent firing weapons?

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

~~Q~~ Did you see several other law enforcement officers there during the evening?

~~A~~ Yes, sir.

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 his entire testimony.

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

MR. BECTON: We have no questions.

MR. HUNEVOL: If the Court please, I request limited instructions as to Mrs. Shaphard.

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

MR. HUNEVOL: Move to strike the entire testimony.

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

MR. HUNEVOL: No questions.

SOL. STROUD: The State will call Chief Glisson at this time, your Honor.

WILLIAM W. GLISSON, called as a witness on behalf of the

State, being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

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

~~A My name is William W. Glisson, Assistant Chief of the Wilmington Fire Department.~~

~~Q Chief Glisson, how long have you been with the Wilmington Fire Department?~~

~~A 39 years and 5 months.~~

~~Q And were you a Chief with the Wilmington Fire Department or Assistant Chief in February of 1971?~~

~~A I was.~~

~~Q On that evening were you on duty?~~

~~A I was.~~

Q And where were you on duty at that time?

A Headquarters Fourth and Dock.

Q ~~Now, Chief,~~ On that evening, ~~did~~ the Fire Department ^{did} receive an alarm to Mike's Grocery store at 6th and Nun?

A ~~Yes, we did.~~

Q ~~And approximately what time did you receive the~~ ^{We} ^L alarm?

A ~~At 10 minutes past 10 o'clock.~~

Q ~~On that evening?~~

A ~~Yes.~~

Q ~~That would be Saturday, February 6?~~

A ~~Yes, that is right.~~

Q ~~And how many companies or units responded to the call?~~

A ~~Two companies and my car, number 5 Company and number 7 Company.~~ ^{responded to that call.}

Q ~~Pardon?~~

A ~~Both of them are thousand gallon pumps; two Pumper Units.~~

Q ~~How did you proceed to 6th and Ann?~~

A ~~We left our headquarters at 4th and Dock. We came up 4th Street to Ann and went on up and caught the fire truck at 5th and Dock. The fire truck stopped in front of the church, laid its lines~~

down. We stopped the trucks right in front of this little house here. (Indicating) Then we laid lines from the truck to the store and started putting water into the store.

Q Let me ask you a couple of questions at this point, if I may. The Units that went to that, responded to the fire alarm there at Mikes, how did they go into the area? Did you have siren or lights on?

A No, we did not. We went in with no lights on and no sirens whatsoever.

Q Who ordered that?

A I did.

Q Why did you order that?

A We had been fired at before in that area.

MR. HUNEVOL: Move to strike.

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

Q And when you arrived there, approximately how many firemen were there during the evening?

A Well during the entire evening we had extra crew to come in to help us. We had probably 15 there at one time.

MR. BALLANCE: Motion to strike.

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

Q How were these men attired; dressed?

MR. HUNEVOL: Objection.

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

A We had full fire fighting gear, regular fire fighting clothes.

Q Would you describe that gear for us?

MR. BALLANCE: Objection.

THE COURT: Objection overruled. *(Exception No. —)*

A They wear their boots, their fire fighting pants and heavy bunker coats and helmets plus face shields they wear on their helmets.

~~Q~~ When ^Jyou arrived there, Chief, where did you go?

^VA I pulled in my car over on this side of the street almost to the church, and the pumpers came in behind me and stopped me and laid their lines on into the store.

MR. BALLANCE: Move to strike.

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

Q When you got out of your car there, what, if anything did you hear?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A Gunfire in t he area.

MR. HUNEVOL: Move to strike.

MR. BECTON: Motion to strike.

THE COURT: Denied. (Exception No. —)

Q What kind of gunfire, if you recall?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A It was small gunfire; shotgun blast once in awhile, but mostly small gunfire.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Motion to strike.

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

Q After you arrived there and heard it, could you tell what area the gunfire was coming from?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A We could hear it on 6th Street, and I heard some sounded pretty close here. At that time it was coming down 5th Street.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q When you arrived there how many buildings were on fire?

A Mike's Store only was the only one on fire.

Q And what was the condition as to the fire at Mike's

when you arrived?

A It was beginning to burn pretty fair in the front section.

~~Q~~ By "the front section" you mean [↓] on the 6th Street side?

~~A~~ On the 6th Street side right at this area; these large windows. [↙]

~~Q~~ ^{I was!} Now you were in command there at the time. Is that correct?

~~A~~ I was.

Q Why didn't you have your trucks go around on 6th Street where you could fight the fire better?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception taken)

A Didn't want anybody to get shot.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

THE COURT: Motion to strike denied. (Exception taken)

Q Now once your equipment was set up there to fight the fire at Mike's, would you go on and describe what occurred, please, sir?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception taken)

A After we laid the lines from 5th Street, parked the trucks in this area, put the lines on the store, the store started burning pretty good. The church started to smoke, scorch a little bit. We put a line on the church and from time to time we put a line on the church to keep it from scorching at all. The store was burning pretty good. We came in behind this first house and started putting water on this little house on 6th Street to keep it from even getting hot. We were run out of there by gunfire.

MR. BECTON: Move to strike.

THE COURT: Denied. *(Spection No. ...)*

A We came out in front, stayed a few minutes, went back in the same area, went into the little house, were putting the fire out when the gunfire again was hitting the back of the little house with bullets. They came out. I told them to take the trucks back to 5th at that time..

MR. HUNEVOL: Motion to strike.

MR. BECTON: Motion to strike.

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

A Back them out and get them away from that area in a few minutes.

Q What, if anything, occurred then?

MR. HUNEVOL: Objection.

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

A Some elderly colored man came and asked me put out the fire. I told him to stop the gunfire and I would. He came back in a little while, said there would be no more gunfire. There was not. We dragged the hose in there and put the fire out. Two houses didn't have to burn.

MR. HUNEVOL: Motion to strike.

MR. BECTON: Motion to strike.

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

Q How many houses total caught on fire?

A Mike's Grocery, the little house next to it, the two-story house next to that and the two-story house beyond that. We put it out in the third house. None of them had to burn.

MR. BALLANCE: Move to strike.

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

Q What do you mean by that?

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

A If we had been allowed to put the fire out there would be some damage to the store.

THE COURT: I didn't hear you.

A We could have put the fire out in the store and there

would have been no damage to anything else. There would have been some damage to the store because of the fire in it, but nothing else needed to burn. We could have put the fire out in the store.

MR. BALLANCE: Motion to strike.

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

Q Chief, approximately how long from the time you received an alarm until the time you extinguished the fire at the fourth building there on 6th Street, approximately how much time elapsed; About how long were you there with the Fire Department?

A I don't remember the last time when we came back: ~~but it was an hour and a half or two hours in that area.~~

~~Q Pardon?~~

~~A~~ It was over an hour and a half or two hours. We were up there longer than that, but before we got the fire put out then we had to take up the hose and get out.

Q I am talking about the total time from the time you received the alarm at 10:10.

A There was over four hours.

MR. BALLANCE: Motion to strike.

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

Q Now, Chief, during the time that you were there, during that period, did you have occasion to observe police officers?

A Yes, I did.

MR. HUNEVOL: Objection.

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

Q How many police officers approximately did you observe?

MR. BALLANCE: Object.

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

A I did not count them, but there were quite a few around the area.

Q ~~I~~ Did you ^{not} at anytime observe any police officers firing weapons?

A ~~I did not.~~

SOL. STROUD: State has no further questions of the Chief. We tender him for cross examination.

MR. BECTON: If it please the Court, we move to strike his entire testimony.

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

MR. BECTON: We have no questions of this witness.

MR. HUNEVOL: I request limited instructions

as to Shephard, your Honor.

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

MR. HUNEVOL: Move to strike his entire testimony.

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

MR. HUNEVOL: I have no questions.

SOL. STROUD: The State will call Fireman J.

D. Rhodes.

J. D. RHODES, called as a witness on behalf of the State,

being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. JOHNSON:)

~~Q — State your name, please, sir.~~

~~A — James Douglas Rhodes.~~

~~Q — Where do you live? Are you from Wilmington?~~

~~A — Right, yes, sir.~~

~~Q — How long have you been a fireman?~~

~~A — November 21 will be 12 years.~~

~~Q — Is that with the Wilmington Fire Department?~~

~~A — Yes.~~

~~Q — Did you have occasion to go to Mike's Grocery on
6th and Ann Street on February 6, 1971?~~

~~A — Yes, sir.~~

~~Q — Approximately what time on that Saturday night~~

~~did you go?~~

~~A~~ We went in on the first alarm, which I think was around 10 o'clock, somewhere right around 10.

~~Q~~ How did you get there?

~~A~~ We came in from 4th Street, our station 4th and Dick; came up 4th or down 4th and up 5th Street; and we stopped here and caught a plug; and then we continued on up and spotted a truck about right here in this area, (indicating) and took our lines off and laid them out to the store to fight the fire.

Q What kind of vehicle did you go there on?

A It is a thousand gallon a minute pumper.

Q How were you dressed?

A Full protective.

MR. BALLANCE: Objection.

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

A Full protective clothing.

Q Describe that, if you will.

MR. FERGUSON: Object.

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

A Boots and bunker pants, bunker coats and helmets with our shields.

Q After you got near Mike's Grocery what, if anything, happened?

~~Q What, if anything, did you do?~~

A Well I was the engineer on the pumper and I helped to take the lines off and to set them on the discharge side of our pumper and also the intake side of our pump in order to get water on the fire, and I stayed in the pumper and pumped the truck and kept everything right at the truck.

Q Upon arriving there what, if anything, did you hear?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A I heard gunfire. Seemed like small caliber mostly, and a few bursts sounded like shotguns or something like this.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q Could you tell what direction this was coming from?

MR. HUNEVOL: Objection.

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

A Yes, sir; it was coming from this area it seemed like right here. (Indicating) Right in this area, I'd say, from right in here over this way mostly and some over in this area here.

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A Heard a great deal of gunfire and we saw a great deal of fire coming from Mike's Grocery.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q How many other firemen did you see when you first arrived there at Mike's?

A When we first arrived?

MR. BECTON: Object.

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

A How many did we - ?

Q Did you see any other firemen?

A We were number 7 Company, and we were the first company to arrive at the fire and number 5 Company was right in back of us, and I'd say at least 12 firemen. There were those two companies plus the Chief's car which came in first, and he was right before number 7 Company got there, which we are number 7 as far as I am concerned.

Q ~~There was~~ ^T the second pumper parked?

A ~~It was~~ [↙] parked right in back of number 7 pumper right at an angle to the right in back of it.