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~~Q~~ ~~Some kin to him.~~

~~A~~ ~~No.~~

~~Q~~ ^I Do you ^{not} know him very well?

~~A~~ ~~No.~~

~~Q~~ ~~Huh?~~

~~A~~ ~~No.~~

Q Was Allen Hall looking at some of the pictures, too?

A When Mr. Brown took me to Mr. Stroud's house?

Q Was Allen Hall at Mr. Stroud's house?

A Yes.

~~Q~~ ~~Well was Allen Hall~~ ^{was} looking at some of the pictures ^{I was} when you were looking at them, too?

~~A~~ ~~Yes.~~

Q When did you go to Mr. Stroud's house and look at the pictures?

A On a Sunday.

~~Q~~ ^{Not this} ~~This past Sunday?~~

~~A~~ ~~No.~~

~~Q~~ ~~Sunday before that?~~

~~A~~ ~~No.~~ Sunday when I about first got out of training school; about 2 Sundays after then.

~~Q~~ ~~When did you say you got out of Training school?~~

~~A~~ ~~May 31st, 1972,~~

~~Q~~ ~~May 31st of this year, 1972?~~

~~A~~ ~~Right.~~

I said
~~Q Did you say two Sundays after you first got in~~ *out of*
~~training school or after you got out?~~

~~A After.~~

~~Q After you got out or after you got in?~~

~~A After I got out.~~

~~Q Did you look at the same pictures that time that you
looked at Mr. Stroud's?~~

~~A Huh?~~

Q Did you look at the same pictures at Mr. Stroud's
house that you looked at in Rocky Mount?

~~A Yes, but there were somemore people I didn't know.~~

~~Q Somemore people you didn't know?~~

~~A Yes.~~

Q Now after you went to Mr. Stroud's house two Sun-
days after you got out of training school, did you
see anymore pictures after that?

A Yes.

Q When did you next see some pictures?

A Since then I seen some pictures ^{this past} Sunday night.

~~Q This past Sunday night?~~

~~A Yes, sir.~~

~~Q Were those the same pictures that you had seen at Mr.
Stroud's house?~~

~~A Huh?~~

Q Were those the same pictures that you had seen before?

A No.

~~Q~~ Were they pictures of the persons that you pointed out in court today?

~~A~~ Yes.

Q Why were they showing you pictures on Sunday night?

SOL. STROUD: Objection.

THE COURT: Objection sustained as to why. (Exception No. ---)

~~Q~~ Do you know why they were showing you pictures this past Sunday night?

~~A~~ No.

SOL. STROUD: Objection.

Q Where were you Sunday night when you were shown the pictures?

~~A~~ Where was I?

~~Q~~ Yes, where were you?

A I was home.

~~Q~~ They brought the pictures by your house?

~~A~~ No, they came and got me.

~~Q~~ Where did they take you?

A To the police station.

~~Q~~ Was your mother was your grandmother at home when they came to get you?

A Yes.

Q
~~Q~~ Did ^S she go to the police station with you? ^{MR!}

~~A~~ No.

~~Q~~ Did ^T they ask her to come with you? ^{MR!}

~~A~~ No.

Q Were any of your sisters or brothers at home?

A Yes.

Q Were they older than you are?

A yes.

~~Q~~ Did ^{Nora} any of them ^{went} go with you? ^{MR!}

~~A~~ No.

~~Q~~ Did they ask any of them to come with you?

~~A~~ Huh?

~~Q~~ Did ^T they ask any of them to come with you? ^{MR!}

~~A~~ No.

Q Who all was at the police station when you looked at the pictures down there?

A Mr. Stroud, Mr. Brown, the detectives,

~~Q~~ Mr. Johnston there, also? ^{was not}

~~A~~ No.

~~Q~~ He wasn't there?

~~A~~ No.

Q When you say detective are you talking about Det. Brown? ^{I am}

~~A~~ Yes, sir.



Q ~~What about Det. Fredlaw?~~

A ~~Yes, sir.~~

Q He was there. Were there some other police officers there?

A They were there but they wasn't in the room where we was.

Q There were a lot of them around the station. ~~Is that right?~~

A ~~Yes.~~

Q Was Allen Hall ^{was not} there?

A No, I ain't seen him.

Q What kind of room were you in when you looked at these pictures?

A A room.

Q How big was the room?

A I don't know.

Q Was it a big room or a small room.

SOL. STROUD: Objection to this.

THE COURT: Objection sustained. (Ex. plex No. --)

Q How long were you at the police station this past Sunday night looking at the pictures?

SOL. STROUD: Objection.

THE COURT: Overruled.

A I don't know.

ed not
Q Do you know about what time *ed* you went down there?

A ~~No.~~

ed
Q You don't know what time you got back home?

A ~~No.~~

ed just about
Q Was *ed* it night time?

A ~~Just about.~~

I was
Q ~~Were~~ you looking at anything on T V when they came
and got *me* you?

A ~~Yes.~~

Q What were you looking at?

A People were singing.

Q ~~huh?~~

A ~~People were singing.~~

Q ~~People were singing?~~

A ~~singing.~~

ed
Q You don't know the name of the program?

A ~~No.~~

ed
Q When you left the police station *ed* did you go back home?

A ~~Yes.~~

ed not
Q Did you watch T V when you got back?

A ~~No.~~

Q What did you do *ed* when you got back?

A *ed*
Talked to my sister.

Q When you went over to Mr. Suroud's house that time do you know how long you stayed over there?

A No.

~~Q Was it a long time?~~

~~A Huh?~~

~~Q Was it a long time?~~

~~A~~ *It* Wasn't so long.

Q About an hour or two?

A Yes.

~~Q~~ And when Mr. Brown talked to ^{*me*} you up to the training school in Rocky Mount, ~~about how long did he stay~~ *d* up there with you?

~~A~~ About 30 minutes *with me.*

~~Q Were you shown any pictures after this past Sunday - have you seen any since then?~~

~~A Huh?~~

Q Have you seen any pictures since this Sunday night? Have any of these policemen or Solicitor of anybody showed you any pictures since Sunday night?

A Yes.

Q When did they show you somemore?

A Showed me some this morning.

Q This morning and last night, too?

A Yes.

~~Q~~ Were ^T they the ~~same~~ ^{same} pictures?

~~A~~ Yes.

~~Q~~ Do ^{not} you know how many pictures ¹ you saw last night?

~~A~~ No.

~~Q~~ Do ^{not} you know how many pictures ¹ you saw this morning?

~~A~~ No.

~~Q~~ ^{were} Who ~~all~~ was present last night when ^{I was} you were shown the pictures?

~~A~~ Mr. Stroud, and Mr. Brown, and Mr. Fredlaw.

~~Q~~ ^{were} And ~~who all~~ was present this morning when ^{I was} you were shown the pictures?

~~A~~ Mr. Stroud, Mr. Johnson.

Q Where were you last night when they showed you the pictures?

A I came from down here, went to the police station. Then I went home.

Q Came from down here?

A Here.

Q You were over here yesterday?

A Yes.

Q What time did you come over here yesterday?

SOL. STROUD: Objection. I fail to see the relevancy of that on voir dire.

MR. HUNEVOL: Your Honor, I see it.

THE COURT: Objection overruled; go ahead.

Q What time did you come up here yesterday?

A I came in the morning. No, it was in the afternoon.

~~Q Afternoon?~~

~~A Yes~~

Q Did they ^{not} show ^{me some} you some pictures up here while ^{you} ~~you~~ ^{was} were here yesterday?

~~A No.~~

~~Q You left here and went back to the police station?~~

~~A Yes, then went home.~~

~~Q How long did you stay at the police station yesterday when you went?~~

~~A Huh?~~

~~Q How long did you stay at the police station yesterday?~~

~~A About 10 or 15 minutes.~~

~~Q Was that where you were shown the pictures?~~

~~A Yes.~~

~~Q Did you ^{not} come into the courtroom yesterday?~~

~~A No.~~

~~Q Did you ^{not} look into the courtroom yesterday?~~

~~A No.~~

~~Q When did you find out who the persons were who are on trial here?~~

~~A Huh?~~

Q When did you find out who the persons were who were

charged with these offenses and are on trial?

A On Friday night?

Q No, I am asking you when did you find out that Chili was charged with burning Mike's and conspiracy to assault emergency personnel? Well did you find that out when you were in training school?

A Yes.

Q Did you find out that Connie Tyndall was charged while you were in training school?

A (No response.)

Q What about Willie Vereen, did you find out Willie Earl was charged while you were in Training school?

A I didn't know they were charged.

Q When did you first find out that they were charged?

A I don't know.

~~Q Huh?~~

~~A I didn't know.~~

Q Who told you that they were charged?

A Nobody.

Q Well you know now that they are on trial here?

A Huh?

~~Q You know that they are on trial here, don't you?~~

~~A Yes.~~

~~Q When did you find out, that they were coming to trial?~~

~~A Sunday.~~

~~Q~~ Are you saying ^I that is when ^l you found out ^{I was} you were coming to court?

~~A~~ Yes.
I did not know

~~Q~~ Well you knew before Sudday that a trial was oing on up here, didn't you?

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

~~Q~~ Now when you looked at the pictures on these different times with Mr. Stroud and Mr. Brown and the others, did they talk to you about testifying in court?

~~A~~ Yes.

~~Q~~ Did ^I they tell ^{me} you that they wanted ^{me} you to come and point out some of the people who were in the pictures?

~~A~~ Yes.

~~Q~~ And that is why you came up here yesterday and today to point out some of the people they told you they wanted you to point out in the pictures. Is that right?

~~A~~ Yes.

~~Q~~ Did ^I you ^I ever ask them what would happen to ^{me} you if you didn't come to court and point them out?

~~A~~ No.

~~Q~~ Did ^I they ^{told me} ever tell you what would happen to ^{me} you if you didn't come to court and point them out?

~~A~~ No.

Q Did they tell you what would happen to you if you did come to court and point them out?

A No.

Q Did they talk to you at all about your legal rights?

SOL. STROUD: Your Honor, I fail to see the relevancy.

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

SOL. STROUD: I believe that is all the questions I have.

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

MR. HUNEVOL: Yes, sir.

CROSS EXAMINATION BY MR. HUNEVOL:

Q When you were shown these pictures in the training school, can you estimate whether there were more than twice as many pictures shown to you as defendants here?

A Yes.

Q More than that?

A Yes.

Q Do you recall whether the pictures were of the same size and shape?

A Un uh.

Q Were all the pictures the same size and shape?

A No. Some were big and some were little.

Q In the stack of pictures that were shown to you in the training school were there some pictures, large pictures of the same people that were in the small pictures?

A No.

Q Were there some people in the small pictures that they had large pictures of?

A As far as I am concerned there was one of them.

Q There was one picture, small picture that they had blown up. Is that correct?

A Huh?

Q Had they an enlargement of one picture? Is that what you are stating?

A Were there any of them in there?

Q Yes.

A There were a lot of them.

Q Were there any numbers on any of the pictures?

A The little ones.

~~Q~~ Did ^Q all of the little pictures ^{did} have numbers?

~~A~~ Yes.

~~Q~~ ^I Can you recall approximately how many big pictures there were? ^{not}

~~A~~ No.

Q Were there more big pictures than little pictures?

A I don't know. I don't know on that.

Q Were all of the pictures of men?

A All of the little ones?

Q All the little pictures were of men. Is that what you are saying?

A Yes. What you trying to say?

Q Eric, I am trying to find out whether all of the pictures that you saw were of men.

A No.

Q Can you recall how many of the little pictures were of men?

A All of them except one. I see all of the little ones.

Q All of the little pictures were of men except the one?

A Right.

Q And do you recall whether the other picture was a female? A woman?

A Ain't no woman. I seen a woman.

Q And that picture was of whom?

A Huh?

Q Who was in that picture, if you recall?

A First woman I seen?

Q Right.

A That woman right there.

Q When you had the meeting over at Mr. Stroud's house, is that the only picture of a woman in that group of small pictures as well?

A The one that I seen, it maybe be some more, but that is the one I seen, the one that he showed me.

~~Q Eric, you remember stating that you were shown the same pictures at Mr. Stroud's house, at the police station, last night and here in court. You did say that, didn't you?~~

~~A What did you say now?~~

Q Did you not say that this morning in court, last night, your meetings at the police station, last night and here in court, your meeting at Mr. Stroud's and you session in the training school you say that you were shown the same group of pictures. Isn't that correct?

A Yes.

Q And Mrs. Shephard, white woman down here, she was the only person in that group of pictures. Isn't that correct; who is a female?

A Right.

MR. HUNEVOL: I have no further questions.

THE COURT: Anything further for the State?

REDIRECT EXAMINATION BY SOL. STROUD:

Q Eric, when you were shown the small photographs

you were also shown several large photographs with a lot of people in them. Is that right?

A Yes.

Q ~~And the large photographs had females in them, did they not?~~

A ~~The big ones? Yes.~~

Q ~~Did they have men and women in them?~~

A ~~Yes.~~

Q ~~Do you remember when Mr. Brown and I went to see you in training school?~~

A ~~Yes.~~

Q ~~Was Allen Hall, with us at that time?~~

A ~~No.~~

Q ~~He was not?~~

Q ~~He was not?~~

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. —)

Q He didn't understand the question.

MR. HUNEVOL: Your Honor -

THE COURT: The objection has been passed on.

Q Was anyone else with Mr. Brown and myself at that time?

A No.

Q Just the two of us?

MR. HUNEVOL: Objection ; move to strike the answer.

THE COURT: Overruled: motion to strike denied.

(Exemption No. —)

A No.

Q We did take you to see Allen Hall shortly?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes.

Q That was after you got out of training school?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

MR. HUNEVOL: Move to strike.

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

MR. FERGUSON: Object.

MR. HUNEVOL: Objection to the Solicitor's cross examination of his own witness.

THE COURT: Overruled. (Exception No. —)

Q When we went to take you to see Allen Hall was it to determine if you could identify him?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Huh?

Q Was it for the purpose of seeing if you had seen him at the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A No.

Q What was it for?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A I don't know.

Q Did you identify him as being at the church at that time?

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

A I know he was at the church.

THE COURT: Overruled.

MR. HUNEVOL: Motion to strike.

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

Q When we took you to see Allen Hall you say that was at my house?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

Q That wasn't at my house, was it?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A At the hotel.

MR. HUNEVOL: Move to strike the response, whatever it was.

THE COURT: Overruled. (Exception No. —)

Q The first time that Mr. Johnson was present when you picked out photographs was this morning. Is

that right?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes.

MR. HUNEVOL: Motion to strike.

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

Q When you were up here yesterday did you come into the courthouse at all?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A No.

MR. HUNEVOL: Move to strike.

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

Q Did you see any of these people over here yesterday?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A No.

Q Each time that you were shown pictures, Eric, were you shown several pictures each time?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes.

Q And you stated before when Mr. Ferguson was questioning you that you were at the church from Wednesday

until Saturday and you left Sunday morning. Is that right?

A Yes, sir.

MR. HUNEVOL: Objection.

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

Q Did you go from Wednesday, Thursday and Friday, did you go to school?

MR. HUNEVOL: Objection.

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

A I went to school that Friday.

Q And you were at the church Saturday night. Is that right?

A Yes, sir.

MR. HUNEVOL: Objection.

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

Q Were you at the church during the daytime on Saturday?

A No, sir.

MR. HUNEVOL: Objection.

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

Q Now, Eric, did you need to see photographs before you would be able to point these people out in the courtroom?

MR. HUNEVOL: Objection.

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

A No.

Q When you were going through the photographs that we showed you, did you have any problem or trouble picking out the photographs of these people?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A No.

Q And were those the ones that you picked out, were those the people that were at the church?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, and some more there.

SOL. STROUD: I have no further question, your Honor.

THE COURT: Any further evidence on the voir dire?

SOL. STROUD: No, sir.

MR. FERGUSON: I'd like to ask the witness a few more questions.

THE COURT: Do you mean as to matters on the Solicitor's re-examination?

MR. FERGUSON: Yes, sir.

THE COURT: Go ahead.

RE-CROSS EXAMINATION BY MR. FERGUSON:

Q Now, Eric, were you asked to point out from these pictures people who were at the church on Wednesday night?

A Not Wednesday night.

Q Were you asked to point out people that were there on Thursday night?

A No.

SOL. STROUD: Your Honor, I don't recall this having come out on my rebuttal question.

THE COURT: Objection sustained. You can ask him about anything that was brought out on re-examination. *(Exemption No. 1)*

Q Were you asked to identify persons who were there at the church on Friday night?

SOL. STROUD: Objection.

THE COURT: Objection sustained. *(Exemption No. 1)*

MR. FERGUSON: Like to get his answer in the record.

THE COURT: Objection sustained. Go ahead and ask the question. Let's move along.

Q Were you asked to point out people who were there on Friday night.

A Yes.

a Q Did you point those out?

A ~~Yes~~

Q Was there any difference in the people you pointed out Friday night and Saturday night?

A Yes, there was some more people and he had more to it.

Q Did you point out these nine people that you pointed out as being there on Friday night?

SOL. STROUD: Objection.

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

Q I am asking if the same people you picked out, the nine people you named here, these defendants, are those the same people that you picked out for Friday night.

SOL. STROUD: Objection.

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

MR. FERGUSON: Like to have his answer in the record.

THE COURT: Objection sustained. *(Exception No. —)* This is on the question of identification, Mr. Ferguson.

MR. FERGUSON: Do I understand the Court to be saying "You cannot put his answer in the record."?

THE COURT: All right. Go ahead and answer it.

Read the question back.

a (The Court Reporter read the question to the witness.)

A I seen more people. Yes, I pick them out.

Q Now you said that when you went to see Mr. Stroud
it was at a hotel?

A Yes.

Q Were was that?

MR. STROUD: Objection.

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

A Holiday Inn.

~~Q Holiday Inn where?~~

~~A I don't know where.~~

~~Q You don't know where the Holiday Inn is?~~

~~A No.~~

~~Q Was it in Wilmington?~~

~~A Yes.~~

Q Was it on Market Street?

A I don't know.

Q Was it on Wrightsville Beach?

THE COURT: Objection sustained, Mr. Ferguson.

He said he did not know where it was. *(Exemption No. 1)*

Q I believe you told Mr. Stroud on his redirect I
believe you said both Mr. Stroud and Mr. Brown came
to the training school in Rocky Mount. Is that
right?

A Yes.

Q Did they tell you they'd help get out of training school?

A No. When they came I was coming home anyway.

Q Did they tell you they'd be able to help you out of any trouble you might get into?

A No.

SOL. STROUD: Your Honor, I don't see how this is relevant to identification.

THE COURT: Mr. Huneol? Is there anything further for the State?

SOL. STROUD: No, sir.

THE COURT: Does the State have any further evidence on the voir dire?

SOL. STROUD: No, sir.

THE COURT: Does either of the defendants have any evidence on the voir dire?

MR. FERGUSON: We move that each and every picture showed to this witness be produced for counsel to see in court.

MR. HUNEVOL: I make the same motion.

THE COURT: Motion denied. ^(Exemption 13) Do either of you have any evidence on the voir dire?

MR. FERGUSON: We would like to introduce those pictures in evidence, your Honor; but we have no evidence that we can present without having

the pictures.

THE COURT: Do I understand the defendants do not wish to offer evidence on the voir dire?

MR. FERGUSON: Your Honor, we wish to offer evidence, but we cannot offer it because we do not have the photographs.

THE COURT: Anything further?

SOL. STROUD: No, sir.

MR. FERGUSON: Your Honor, can one of the defendants and I be excused?

THE COURT: Yes, sir.

The Court finds as a fact that this witness was at the Gregory Congregational Church in Wilmington on Saturday night, February 6, 1971, that he saw the defendants Moore, Jacobs, McKoy, Chavis, Wright, Shephard, Vereen, Patrick and Tyndall at the church on February 6, 1971.

The Court further finds as a fact that this witness knew defendant Moore before February, 1971, having played basketball at the Community Center and that the defendant Moore was at the Community Center from time to time and that he knew his name prior to February 1971.

The Court further finds as a fact that this witness knew the defendant Jerry Jacobs prior

to 1971; that he had seen him before that date on Castle Street in the City of Wilmington.

The Court further finds as a fact that this witness knew the defendant McKoy before February 1971; that the defendant McKoy had visited people who lived next door to this witness and that he had known him prior to February 1971.

The Court further finds as a fact that the witness knew the defendant Ben Chavis, having seen him at the church on February 6, 1971, and learned his name at that time.

The Court further finds as a fact that the witness knew Joe Wright before February, 1971; that Joe Wright's cousin went with his sister and that he had seen Joe Wright on Red Cross Street and knew his name prior to February 1971.

The Court further finds as a fact that this witness saw the defendant Shephard at the church on Saturday night, February 6.

The Court further finds as a fact that this witness knew the defendant Vereen prior to February 1971; that he had seen him before that date and saw him at the church.

The Court further finds as a fact that the witness knew Patrick, the defendant Patrick,

before 1971; that his nickname was Chili and that he had seen him from time to time on Castle Street in the City of Wilmington.

The Court further finds as a fact that the witness knew the defendant Tyndall having seen him at the church on February 6, Saturday night, 1971.

The Court further finds as a fact that a number of photographs were shown to the witness in May of 1972 from which the witness identified photographs of the defendants Moore, Jacobs, McKoy, Chavis, Wright, Shephard, Vereen, Patrick and Tyndall; that there were a number of photographs, both small ones and large ones; that there were a number of people; that there were a number of photographs of people other than the defendants; that these photographs were first exhibited to the witness about 2 weeks before he left the training school and that he already knew that he was going to leave training school at that time; that the photographs were shown to him from time to time since May 1972, at which times he identified the photographs of the defendants as persons whom he had seen at the Gregory Congregational Church on Satur-

day night, February 6, 1971; that from clear and convincing evidence that in-court identification of the defendant Wayne Moore and the in-court identification of the defendant Jerry Jacobs and the in-court identification of the defendant Connie Tyndall and the in-court identification of the defendant Marvin Patrick and the in-court identification of the defendant Benjamin Franklin Chavis and the in-court identification of the defendant Willie Earl Vereen and the in-court identification of the defendant James Mckoy and the in-court identification of the defendant Joe Wright and the in-court identification of the defendant Ann Shephard by the witness Eric Junious, each of independent origin based solely on his acquaintance with these defendants and on seeing them at the Gregory Congregational Church on Saturday night, February 6, 1971, and does not result from any photographs that is suggestive and conducive to mistaken identification.

The in-court identification of the defendants Patrick, Tyndall, Jacobs, Vereen, Moore, Wright, McKoy, Chavis and Shephard are competent and admissible into evidence. Let the jury come in.

MR. FERGUSON: If your Honor please, we would like to move for a reconsideration of the Court's

order and reopening of evidence on a voir dire

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

MR. FERGUSON: If your Honor please, we object to any testimony by this witness.

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

MR. FERGUSON: And we except to each and every finding of the Court on voir dire. We would further move that requirement for this witness to be allowed to testify is that counsel be given an opportunity to interview the witness. The first time it became known that this witness would testify was this morning outside of court.

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

MR. HUNEVOL: Your Honor, I would like to make the same motions and the same exceptions.

THE COURT: All right.

(The jury returned to the jurybox.)

DIRECT EXAMINATION BY SOL. STROUD Continues:

Q Eric, when you went to the Gregory Congregational Church on that Saturday evening, February 6, did you see any of these people over here there?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

~~A I wasn't there that evening.~~

~~Q Pardon?~~

A I wasn't there that evening.

Q You weren't there on Saturday evening?

A No.

MR. HUNEVOL: Objection, your Honor.

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

Q Were you there Saturday night?

A Yes.

MR. FERGUSON: Objection.

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

Q On that Saturday night did you see any of these people over there at the church?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes.

Q Would you point out which ones, please?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

(Witness stands and points.)

A Here.

~~Q Identify what he is wearing.~~

~~A Green shirt.~~

A I seen Chili.

~~Q Point him out and what ^{He} is wearing,~~

~~A Wearing a brown jacket.~~

~~Q Coat?~~

~~A Yes, coat. I seen Willie Earl.~~

~~Q What is ^{He is} he wearing?~~

~~A A blueish sirt and tee shirt under it. And I seen~~

~~Q Annie Shephard. ^{She is}~~

~~Q Point her out.~~

~~A The girl with the glasses on. I seen Ben Chavis.~~

~~Q Point him out.~~

~~A ^{He is} Right over there.~~

~~Q What is ^{He is} he wearing?~~

~~A That preacher suit. I seen Joe Wright.~~

~~THE COURT: Just a minute. I am not going to
allow any laughing or any other noise in the
courtroom.~~

~~Q You seen Joe Wright. What is ^{He} he wearing?~~

~~A The green corduroy suit.~~

~~Q All right.~~

A I seen the boy over there with that black jacket on.

Q The boy with the balck jacket on in the back? All
right.

A And Wayne Moore,

~~Q Which one is he?~~



~~A The one with the red -~~

~~Q The one with the red blye on?~~

~~A Red blye.~~

Q Did you see any others there when you went to the church Saturday night?

A Yes, was some more people there, but they ain't in here.

Q How about the young man here in the purple shirt and the brown trousers? Did you see him there at the church Saturday night?

A I seen him that day, but I ain't seen him that night.

Q Now James McKoy here with the purple shirt on -

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

Q When you went to the church Saturday night, when you first got there, did you see him?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, that day. That night when I got there, yes.

Q He was there? Did you see him later in the evening?

MEL BALLANCE: Object. (Exception No. —)

A I wasn't there in the evening.

Q Later in the night?

A Unhuh.

Q Had you known Wayne Moore, the one with the red

blye on? Had you know him before February 1971?

A Yes.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q How had you known him?

A Used to play basketball at the Community Center.

~~Q You played basketball at the Community Center?~~

~~A Yes.~~

Q Now next to him the one in the back, Jerry Jacobs, the one you said had the black coat on, had you seen him before February there at the church?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

~~A Yes.~~

~~Q Where had you seen him?~~

~~A On Castle Street.~~

Q Now James McKoy, had you seen the one here in the purple sweater or the purple shirt, had you seen him before February 1971?

A Yes.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q Where had you seen him?

A From next door from our house.

Q What about next door to your house?

MR. FERGUSON: Objection.

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

A He used to be there.

Q Did you know his name before February?

A I know his name was Bun.

~~Q You knew his name was what?~~

~~A Bun.~~

Q How about the defendant Chavis? Had you seen him before February when you saw him at the church?

MR. BALLANCE: Objection.

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

A No.

Q When you were at the church did you learn his name?

A Yes.

MR. BALLANCE: Object.

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

Q How about Joe Wright, the one in the green jacket? Had you seen him before you saw him at the church in February?

MR. BALLANCE: Object.

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

A Yes.

Q Did you know his name?

A Yes.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q Where did you know him from?

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

A His sister usually go with my cousin.

Q Pardon?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A My sister used to go with my cousin.

~~Q How about Ann Shephard, had you seen her before you~~ ^{not} ^{Ann Shephard}

saw her at the church in February?

~~A No.~~

Q And how about Willie Earl Vereen? Had you seen him before before you saw him at the church in February?

A Yes.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q Do you know where you had seen him before?

MR. BALLANCE: Object.

A No.

THE COURT: Overruled. (Exception No. —)

~~A I know I seen him.~~

~~Q Excuse me?~~

A But I know I had seen him before.

Q How about Marvin Patrick, the one in the brown coat down there? Had you seen him before you saw him at the church in February?

MR. BALLANCE: Object.

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

A Yes.

Q Did you know his name at that time?

MR. BALLANCE: Object.

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

A I know his name was Chili.

~~Q Chili?~~

~~A Yes.~~

~~Q And where did you know him from?~~

~~A~~ Used to see him a lot on Castle Street. Sometimes I saw him on Nixon Street.

~~Q Castle Street and Nixon Street?~~

~~THE COURT: Son, take your hand down.~~

Q How about Connie Tyndall, the one in the green shirt? Had you seen him before you saw him at the church in Febraury?

MR. BALLANCE: Objection.

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

A I seen him somewhere but -

~~Q Pardon?~~

A I just know him by his face.

Q Now I hand you what has been received into evidence as State's Exhibit number "89". Would you look at that, please? Are there any people there in that photograph that you saw at the church on that Saturday night?

A Yes.

Q In February?

MR. BALLANCE: Objection.

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

A Yes.

Q Would you point them out, please?

MR. BALLANCE: Objection.

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

A (Pointing) Here and here.

Q Would you show it to the jury and point on it please?

MR. BALLANCE: Objection.

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

A (Pointing) Here and here.

SOL. STROUD: I'd like the record to show he pointed out the defendant Chavis and also Allen Hall.

Q Now, Eric, when you went to the church on that Saturday night, did you hear the defendant Chavis talking to a group of people?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes.

MR. BALLANCE: Move to strike.

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

Q How many times on that Saturday night?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

A Two.

Q Two times?

MR. BALLANCE: Motion to strike.

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

Q Was he using anything to talk to the people with?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

A Yes.

Q What?

A Microphone.

MR. BALLANCE: Move to strike.

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

Q What did he say the rist time?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: overruled. (Exception No. —)

A Let me see. Yes, he said he might burn down Mike's store and he said we would throw the gas bombing between the houses and when the police and firemen come, shoot at them.

MR. BALLANCE: Motion to strike.

THE COURT: Denied. (Exception No. —)

Q Was that the first time or the second time that he spoke on Friday night?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A O, I know now. That was the second time.

MR. FERGUSON: Object; move to strike.

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

Q What did he say the first time?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A He said the boys who got guns come with me, and the new ones stay down.

MR. BALLANCE: Move to strike.

THE COURT: Denied. (Exception No. —)

Q After he said that what did the defendant Chavis do?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A He didn't talk no more. Then Annie said, "Let's show these crackers what we mean."

Q After the defendant Chavis was talking over the microphone and said, "You big boys with guns come with me and you little ones stay down." Did he go anywhere?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A He went out the door.

Q Did anyone go with him?

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Did anyone go with him when he went out the door?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q Would you point out which ones went with him when he went out the door?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q If they are here in the courtroom.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A That boy in the green.

Q That is Connie Tyndall for the record.

A Chili.

SOL. STROUD: Marin Patrick for the record, your Honor.

A Willie Earl.

Q Willie Earl Vereen?

A Yes. And Joe Wright and everybody back there in the back. That boy back there in the black coat.

Q Jerry Jacobs.

A And Moore.

Q Wayne Moore?

A Yes.

MR. BALLANCE: Move to strike.

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

Q Again, I hand you State's Exhibit number "89", Eric. Now is there anyone in that photograph that went out with the defendant Chavis at this time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes. Him.

MR. BALLANCE: Move to strike.

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

SOL. STROUD: Like the record to show that he pointed to Allen Hall, your Honor.

Q Now after they went out of the church did you stay inside the church?

A Yes.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q And after they went out and while you were inside the church did you hear anything?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q What did you hear?

A Some shooting.

Q Some shooting? Now did any of these after that, after you heard the shooting, did any of the ones you pointed out, did they come back into the church?

MR. BALLANCE: Object to the leading.

THE COURT: Overruled. (Exception No. —)

A Yes.

Q Now when the defendant Chavis made this first statement over the microphone that you have testified about, did you see any of these other people inside the church at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Nothing but Ann *Shepherd*.

~~Q Ann Shepherd?~~

~~A Yes.~~

Q When they came back to the church what happened?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A When who came back?

Q The ones you pointed out that left the church with the defendant Chavis.

A Ain't but one came back.

Q Who came back first?

A Willie Earl.

MR. HUNEVOL: Objection.

MR. FERGUSON: Objection.

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

A. Willie Earl Vereen?

~~A Yes.~~

Q What happened when he came back?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A He said he got him one.

~~THE COURT: Said what?~~

MR. HUNEVOL: Motion to strike.

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

Q Did anymore come back after that?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Then Joe Wright came in.

Q When Willie Earl Vereen and Joe Wright came in did they have guns?

A Yes.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

Q After Willie Earl Vereen and Joe Wright came back in the church did any of these other people come back in the church?

A About 15 minutes.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A. Later Ben Chavis came back in.

Q. ~~Did anybody come in with him?~~

A. ~~Yes.~~

Q. ~~Who?~~

A. Chili, *Harvin Patrick* came in with him.

Q. ~~Harvin Patrick?~~

A. That boy over there in the green, *+*

Q. ~~Connie Tyndall?~~

A. ~~Yes,~~ and Chili, and I don't know what the other boy's name was, was fussing.

Q. Huh?

A. Chili and the other boy came back in there started fussing.

MR. BALLANCE: Object.

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

Q. Again, I had you State's Exhibit number "89".

Can you point out anyone in that photograph who came back in the church with the defendant Chavis and Chili and Tyndall?

A. (Pointing) Him.

MR. FERGUSON: Objection.

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

SOL. STROUD: Liek the record to show he pointed out Allen Hall.

Q Who was fussing with Marvin Patrick?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. 7)

Q This boy, Allen Hall?

A (No response)

Q Now when the defendant Chavis add the defendant Connie Tyndall, the one in the green shirt, and the defendant Patrick, Chili, and Allen Hall, when they came back into the church, did they have guns?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. 7)

A Yes.

Q Now after that did you again hear the defendant Chavis talking over the microphone?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. 7)

A Yes, sir.

Q What did he say the second time?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. 7)

A He said we might burn down Mike's store and said throw the gas bomb between the houses and when the

houses and when the police and firemen come go to shoot at them. I tried to see what was going on, and I went upstairs and my finger got smashed in the door then and took me over to preacher's house and wrapped me up, my finger. Took me to the hospital, and I came back and I heard shooting, and the boy that took me to the hospital told me to go back and say, "Rabbit" because that was the pass word. I went back and I lay down and I left that Sunday morning.

MR. BALLANCE: Move to strike.

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

MR. HUNEVOL: Motion to strike.

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

Q After the second time when the defendant Chavis said, "We are going to burn down Mike's and to get between the houses and when the police officers and firemen come to shoot at them", after he said that on the microphone, did anyone else say anything?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

A Yes.

~~Q~~ Who?

~~A~~ Annie and some other man. I don't know his name.

~~Q~~ Ann Shephard said something?

~~A~~ Yes.

~~Q What did she say?~~

A She said, Q "Let's show these hunkies that we mean business."

~~THE COURT: Said what?~~

~~A "Let's show these hunkies that we mean business."~~

~~Q "Let's show these hunkies that we mean business."?~~

~~A Yes.~~

Q Now after Ann Shephard stood up and said that, where did the defendant Chavis go?

MR. BALANCE: Object.

MR. HUNEVOL: Objection.

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

A Outside.

~~Q Outside?~~

~~A Yes.~~

Q Did any of the others go outside at that time?

MR. BALLANCE: Objection.

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

A Yes.

Q Point out which ones, please.

MR. BALLANCE: Object.

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

A (Stands and points) ~~In the green.~~

~~Q The one in the green shirt, Connie Tyndall,~~

~~A And Chili, *Karvin Patrick*~~



~~Q~~ ~~Marvin Patrick?~~

~~A~~ ~~Yes, and Willie Earl Verreen,~~

~~Q~~ ~~Willie Earl Verreen.~~

~~A~~ ~~And Chavis,~~

~~Q~~ ~~Chavis.~~

~~A~~ ~~And Joe Wright,~~

~~Q~~ ~~Joe Wright.~~

~~A~~ ~~And that boy over there in the black coat,~~

~~Q~~ ~~Jerry Jacobs?~~

~~A~~ ~~Yes, and Wayne Moore.~~

(Witness sits down.)

Q When they left the church did they have guns?

A Yes.

MR. FERGUSON: Objection: move to strike.

THE COURT: Overruled. (Exception No. —)

Q Did you see where they went when they went outside?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A They were between the church and the preacher's house.

~~Q~~ ~~Down the alley between the church and the preacher's house?~~

~~A~~ ~~Yes.~~

~~Q~~ ~~I don't know
What happened after that?~~

~~A~~ ~~I don't know. I tried to go see and that is when~~

my finger got smashed.

~~Q Your finger got smashed?~~

~~A Yes.~~

Q Inside the church?

A yes.

~~Q How did it get smashed?~~

~~A~~ Boy, when I was coming out the door, my finger was in the door.

~~Q Would you speak up?~~

~~A And my finger was in the door.~~

~~Q And somebody closed the door?~~

~~A Yes.~~

Q After you got your finger smashed, did you go over to Rev. Templeton's house?

A Yes.

MR. BALLANCE: Object.

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

Q Did anyone go over there with you?

A Yes.

MR. BALLANCE: Object.

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

A And Ann - I don't know who the girl was.

~~Q~~ Ann Shephard went over there with you ^{me}

~~A Yes.~~

↓