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Q You are just sitting up there lying, aren't you, Jerome Mitchell?

SOL. JOHNSON: Object.

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

Q What time did you go to sleep?

~~THE COURT: What was the question?~~

~~MR. FERGUSON: What time did he go to sleep Friday night.~~

A I went to sleep that night. I can't exactly recall what time it was. I just stayed at the church that night.

Q While you were an escapee, did you flee to the state of New Jersey?

MR. JOHNSON: Object.

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

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

THE COURT: All right.

A *(Whispered)* Yes.

Q Didn't you flee from the State of North Carolina?

SOL. JOHNSON: Objection.

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

A *(Whispered)* Yes.

Q Now where were you when you were arrested?

THE COURT: Come back to the stand.

(Witness returns to the witness stand.)

SOL. JOHNSON: Objection.

THE COURT: Sustained. (Exception No. —)

MR. FERGUSON: I want the answer put in the record.

THE COURT: All right. Step down.

A (Whispered) New Jersey.

Q When you were arrested on these murder charges and armed robbery charges and anything else you might have been arrested on, weren't you in the State of New Jersey?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —) Put the answer in the record.

A (Whispered) Yes.

Q And didn't you have to be extradicted from the State of New Jersey or wherever you were back to the State of North Carolina?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

A (Whispered) Yes.

Q You didn't voluntarily come back to the State of North Carolina, did you?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —) Put the answer in the record.

A (Whispered) Yes.

Q As a matter of fact, you haven't done anything lawful voluntarily, have you?

SOL. JOHNSON: Objection. *(Exception No. -)*

THE COURT: Sustained. Put it in the record.

A (Whispered) Yes.

Q Now, Mitchell, you know you didn't go to that church on Friday and Saturday.

SOL. JOHNSON: Objection.

THE COURT: Overruled.

A I told you I'd been there, and I was there.

Q ~~Now you~~ told this jury that on Saturday you went to the church that night sometime. Isn't that correct?

A That is correct.

Q Well before I get to that, one other thing. While you were on escape running all over the country, weren't you declared an outlaw?

SOL. JOHNSON: Objection.

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

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

THE COURT: All right.

A (Whispered) Yes.

Q ~~Now you~~ told this jury on yesterday on Saturday you went in the area of the church about 8 o'clock.

~~A~~ That is correct.

~~Q~~ Is that right?

~~A~~ I said approximately 8 o'clock. Could have been after.

Q Do you want to change that now?

A That is what I said.

Q Approximately 8 o'clock?

A I could have been after.

Q Well it could have been that you didn't go at all. Isn't that correct?

SOL. JOHNSON: Objection.

THE COURT: Sustained. (*Election No. —*)

Q I am not asking you what it could have been. I am asking you what you did, Jerome Mitchell.

~~A~~ I told you what I did.

~~Q~~ What did you do?

~~A~~ I went to the church. I got in the area of the church. It was about 8 o'clock or a little after.

~~Q~~ Or a little after?

~~A~~ I don't know how much after it was.

Q You told them you left the church and went to the Liberation Club on Castle Street, didn't you?

A I told him when the car that came through up on Castle Street to see where the car went.

Q How did you follow the car? Did you walk behind it?

A Correct.

~~Q You walked behind the car from 7th and Nun Street to Castle Street to see where it was?~~

~~A Correct.~~

Q Now that is a lie.

SOL. STROUD: Objection.

THE COURT: Sustained. *(Exception No. —)* Mr. Ferguson, that is not proper examination.

Q How fast was the car going, Jerome Mitchell?

SOL. STROUD: Objection.

A Regardless of how fast the car was going I walked behind the car.

THE COURT: Overruled.

Q So if the car was going a hundred miles an hour you walked behind the car?

A I was still behind the car, Mr. Ferguson.

SOL. STROUD: Objection.

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

Q How close were you behind the car?

A Close enough to see it.

~~Q All the way ^{I was} you were close enough to see it?~~

~~A Correct.~~

~~Q Just walking behind the car to Castle Street?~~

~~A That is correct.~~

Q That is what you want this jury to believe??

A Close enough to see it.

~~Q~~ When you finally caught up with the car, you say ^{I said} the man was outside the car sitting on the curb.

~~Is that right?~~

~~A~~ Sidewalk.

~~Q~~ What?

~~A~~ The sidewalk.

~~Q~~ On the sidewalk?

~~A~~ That is correct.

Q Is that what you came up to 7th Street for? To walk behind cars to Castle Street?

A No telling.

~~Q~~ Ain't no telling what you came up there for. ^I Is that correct?

~~A~~ That is correct.

~~Q~~ ^I Did you walk behind any other cars anywhere that night?

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

Q Now was it after you walked behind the car to Castle Street that you say you went to the Liberation Club on Castle Street?

A No, sir; I said that I stayed on Castle Street in the area until emergency vehicles took the man to the hospital and talked a while and then went to

the Liberation Club.

~~Q~~ ~~What time?~~

~~A~~ I can't exactly say, ^{what times} It could have been about 9 o'clock or it could have been later.

~~Q~~ ~~Where did you go after that; after the emergency vehicle, as you call it, came and took some people to the hospital?~~

~~A~~ Liberation Club. ^{I went to the}

~~Q~~ And that is the Club you say was located on Castle Street?

~~A~~ Right.

~~Q~~ The same location where the black Messiah Church is now. Is that correct?

~~A~~ That is correct.

~~Q~~ Now, Jerome Mitchell, you know it to be a fact that a furniture store was located there on February 5 and 6, 1971, and that the Liberation Club never opened up until May of 1971, don't you know that?

SOL. STROUD: Objection.

THE COURT: Overruled.

A. It was opened then.

Q. Do you know who was running the Soul Liberation Club?

A. Different people.

~~Q~~ ~~Could you know any of them?~~

~~A~~ Epps was running it. Epps would be there.

~~Q~~ ~~I say who was operating it?~~

~~A~~ He would be operating it sometimes.

Q Are you saying Epps was operating the Soul Liberation Club in February of 1971?

A I said different people and he is just one of them I knew.

~~Q~~ (if ¹ Was he operating it on the Saturday night when you went there?)

~~A~~ I can't recall.

Q Are you saying he might have been there and he might not?

A I say he was at the barricades when I went around in the area of the church.

Q That was a second thought. You first said you can't even recall that. Isn't that right?

A I said that different people operates the place.

Q You just told the jury you can't even recall whether Reginald Epps was operating it on Saturday night, didn't you?

A Mr. Ferguson, I don't know how the people operated the place. They have certain nights to operate it or what. But I just told you that different

people operates the place. I don't know if they have a week to operate it or certain nights to operate the place or what. It could have been his night to operate it, but he wasn't there. That is what I mean.

Q The fact of the matter is, Jerome Mitchell, you didn't get a bit closer to the Soul Liberation Club than you did to Heaven that night. Is that right?

SOL. STROUD: Objection.

THE COURT: Objection sustained. *(Sustained)*

Q Now you signed the statement to the effect that you left the church at 5 o'clock on Saturday morning and you sat up on the stand and say you left at 7:30. What time did you leave?

A I told you, Mr. Ferguson, it was around 7:30 or 8 o'clock.

Q ~~All right now I believe you told the jury here that you saw James McKoy later that day, did you not?~~

A ~~That is correct.~~

Q ~~Where was that?~~

A ~~Front Street.~~

Q ~~What time?~~

A ~~I don't exactly recall what time of day it was, Mr. Ferguson.~~

Q ~~I am not asking you exactly what time. Can't you~~

~~approximate?~~
A ~~It~~ Could have been around 2, 3.

Q Around 2 or 3 o'clock?

A Well it was in the afternoon. I'll just put it like that. It was in the afternoon.

Q The afternoon runs from 12:01 until 5:05. What time did you see the man?

SOL. JOHNSON: Objection.

THE COURT: Sustained. *(Was he No.)* Now the next question.

Are you asking what time did he see him?

MR. FERGUSON: Yes, sir.

A I told you it was in the afternoon.

Q What were you doing down on Front Street in the afternoon?

A ~~I guess I was buying something.~~

Q ~~Sir?~~

A I guess I was purchasing something. I don't know. Probably just window shopping. I can't exactly recall.

Q ~~Did you see any of the other persons on trial here (that Saturday during the day?)~~

A I seen Epps and Wayne Moore.

Q ~~How where did you see them?~~ *I saw*

A ~~Castle Street~~ *↓*

~~Q What time was that?~~

~~A In the afternoon.~~

Q Why do you want to be so evasive, Jerome Mitchell?

SOL. JOHNSON: Objection.

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

Q When in the afternoon?

A I can't recall what time it was. I didn't have a watch with me.

Q Did you have a watch with you when you signed the statement saying you got up at 5 o'clock Saturday morning?

A I didn't make no statement to anybody that I got up at 5 o'clock. I said it was 7:30 or around 8 o'clock. Why it's there I don't know.

~~Q Did you have a watch then?~~

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

~~Q Did you have a watch when you told Mr. Stroud that you came to the church around 7 o'clock P M on Friday night?~~

~~A Have a watch then?~~

~~Q Yes.~~

~~A No, sir; because I can recall from the incidents that happened that night.~~

Q Somebody told you what time the incident happened?

A No, I can recall about the time I left from my house.

Q Did you have a watch when you told Mr. Stroud that you got to the church around 8 P M on Saturday night?

A Well not exactly, but I can recall from the time that I got around there the way I was before that.

Q Why did you need a watch to tell the jury what time you saw Reginald Epps and Wayne Moore and James McKoy?

A I am sayint it was late afternoon.

Q Was it late afternoon or early afternoon or mid-afternoon?

A I don't exactly recall, Mr. Ferguson.

Q You just don't want to recall, do you?

SOL. STROUD: Objection.

THE COURT: Objection sustained, Mr. Ferguson.

He said he did not recall.

~~Q~~ Well was it after you saw McKoy that you saw Epps and Moore? *(Excuse Mr. Ferguson)*

~~A~~ Yes, sir.

~~Q~~ (How long after?)

~~A~~ I can't exactly say.

Q How long did you stay down on Front Street?

A This I definitely don't know how long I stayed down there.

Q Well you said you went shopping.

A I didn't have no special thing to do. I just had the time. I wasn't in no hurry.

I could have
~~Q Did you stay down there a good little while?~~

~~A Could have. What do you call a good little while?
What are you referring to?~~

~~Q Where on Front Street did you see James McKoy?~~ *I saw*

~~A Around Front and Market, around that way.~~

Q That is two blocks from the police station?

A Huh?

Q That is two blocks from the police station?

A I don't know how many blocks it is from the police station.

Q You know where the police station is?

A I never measured it. I don't know how many blocks. Of course, I know where the police station is.

~~Q~~ Do you know where Front Street is?

~~A Yes.~~

~~Q~~ Did you know where Market Street is?

~~A Yes~~

~~Q (How far is Market Street from the police station?)~~ *is*

~~A I don't know~~

Q You can't count that far? Two blocks?

THE COURT: Mr. Ferguson, he said he did not

know. Objection sustained. (Exception No. —)

Q So here you are an escapee and walking up and down Front Street just two blocks from the police station. Is that right?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

Q And you are telling this jury you have no idea how long you stayed on Front Street?

SOL. JOHNSON: Objection. (Exception No. —)

THE COURT: Objection sustained. He has told you he did not know how long he was on Front Street.

Q What stores did you go in down on Front Street?

SOL. JOHNSON: Objection.

THE COURT: Sustained. (Exception No. —)

Q Did you go in any stores?

SOL. STROUD: Objection.

THE COURT: Overruled.

A Yes, sir,

Q ~~How many?~~

A ~~Quite a few.~~

Q Which ones did you go into?

SOL. STROUD: Objection.

THE COURT: Overruled.

A Delugans Mens Shop, Frankenstein, went to the pool room there, restaurant, quite a few places.

Q Did you buy anything in Delugans?

MR. JOHNSON: Objection.

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

A Could have.

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

Q Where is Delugans located?

SOL. STROUD: Objection.

THE COURT: Overruled.

A Front Street.

~~Q Where on Front Street?~~

A Between Market and Dock.

~~Q Where is Frankenstein's?~~ *is the*

A Same place next door from Delugans.

~~Q What pool hall did you go in?~~ *I went to the*

A Right down the block from Delugans.

~~Q Shoot any pool?~~ *I did some*

A That is right.

Q How many games of pool did you shoot?

SOL. STROUD: Objection.

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

A I can't rightly say.

Q Who did you shoot pool with?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

MR. FERGUSON: I'd like to have his answer placed in the record.

THE COURT: All right.

A (Whispered) Different people.

Q Now they don't allow anybody in that pool room under 13, do they?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

Q And you were what? 16 at that time?

SOL. STROUD: Objection.

THE COURT: Overruled.

A Yes, sir.

Q How many games of pool did you shoot?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

Q What are you smiling about?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

Q What restaurant did you go to?

SOL. STROUD: Objection.

THE COURT: Sustained. (Exception No. —)

MR. FERGUSON: I'd like to have his answer

placed in the record.

THE COURT: All right.

A (Whispered) I don't know the name of it.

Q Did you get a meal at the restaurant?

SOL. STROUD: Objection.

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

Q Like to have his answer put in the record.

THE COURT: All right.

A (Whispered) Don't recall.

Q Now when you left the Front Street area where did you go?

SOL. STROUD: Objection.

THE COURT: Overruled.

A I guess I left from downtown at that time.

~~Q What?~~

~~A I guess I left from downtown at that time.~~

Q Did you walk in the river?

SOL. STROUD: Objection.

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

Q Where did you go? I know you left from downtown.

I asked you where you went.

A I don't know exactly where I went before I got to Castle Street.

Q Did you go home?

SOL. JOHNSON: Objection

THE COURT: Sustained. *(Exemption No. 1)* He said he didn't know where he went.

Q How long did it take you to get to wherever you went?

A I didn't time it, Mr. Ferguson.

Q What did you do with the merchandise that you purchased?

SOL. STROUD: Objection.

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

Q Had you purchased some merchandise?

SOL. STROUD: Objection.

THE COURT: Objection sustained.

MR. FERGUSON: Your Honor, may I approach the bench?

THE COURT: Yes, sir.

(Conference at the bench.)

Q Did you go anywhere else before you went to Castle Street?

SOL. STROUD: Objection.

THE COURT: Overruled.

A If I did I don't recall.

~~Q~~ ^Q Well did you ever go home that day before you went back to the church that night?

~~A~~ Yes, sir.

~~Q~~ ~~When did you go home?~~ *I went*

~~A~~ In the afternoon.

~~Q~~ Was that *after* ~~before~~ you went to Castle Street, ~~or~~ after?

~~A~~ After.

Q When you went home did you come back to Castle Street before going to the church?

A I have to come back by Castle Street in order to get to the church, Mr. Ferguson.

Q All right, sir. Now when you saw Wayne Moore and Reginald Epps on Castle Street in the afternoon did you have any discussion with them?

A Could have talked with them. I don't recall.

~~Q~~ *I said* ~~You say you~~ don't have any idea what time it was?

~~A~~ That is right.

~~Q~~ *I* ~~Did you~~ *not* see any of the other persons on trial here that afternoon?

~~A~~ No, sir.

Q You didn't see Jerry Jacobs?

A Not as I recall I didn't.

THE COURT: Let me ask one question. Who did

you say you saw on Castle Street that afternoon?

A Epps and Moore. When I went home, Mr. Ferguson, that afternoon before I returned to the church,

I did stop by Mrs. Shephard's house, seen her at her place.

~~Q Stopped by Mrs. Shephard's house?~~

~~A That is correct.~~

~~Q Was she there?~~

~~A Yes, sir.~~

~~Q All right, sir. Now what time was that?~~

~~A It was in the afternoon. late afternoon.~~

~~Q This was after you had been home and on your way back to the church?~~

~~A That is correct.~~

~~Q How long did you stay over at her house?~~

~~A I usually stay over there quite sometime. I can't exactly recall. It could have been an hour or shorter than that.~~

~~Q Could it have been longer than an hour?~~

~~A It is possible.~~

~~Q Now were you travelling by foot most of the day?~~

~~A You are correct.~~

~~Q Now let me just get something clear here. You said that on the way home from church you stopped back by Mrs. Shephard's.~~

~~A That is correct.~~

~~Q When you left Mrs. Shephard's where did you go?~~

~~A~~ I went back towards Castle Street.

~~Q~~ And then on towards the church?

~~A~~ That is correct.

Q Did you say on Castle Street very long before you went to the church?

A Not that long. Long enough to talk awhile.

Q Maybe a half hour or so, something like that?

A Could have been.

~~Q~~ And then went on to the church?

~~A~~ Yes, sir.

~~Q~~ So it would have been maybe 5:30 or 6 o'clock in the evening when you saw Miss Shephard at home.

~~Is that correct?~~

~~A~~ That is right.

~~Q~~ Now if I understand your testimony you stated that on Saturday night when you got back to the church you saw Reginald Epps at a barricade at 7th and Nun.

~~A~~ That is correct.

Q Would you go to the diagram there and point out where that is to the jury?

A (Pointing) It would be about in here.

Q And that was about 8 o'clock?

A Could have been after; later; around 8.

Q And then you say you followed the car down to Castle Street?

A Well myself and along with others.

~~Q Who else (walked down to Castle Street?)~~

~~A Maurice Jones and Nathaniel Ross.~~

Q And you said you went over there, and you waited until the emergency vehicle came?

A Well I wasn't waiting on emergency vehicle. I was conversating, talking to some of the people that was around there.

~~Q Didn't you say you stayed until the emergency vehicle came?~~

~~A I was there until the crowd left and the emergency vehicle came and took the man to the hospital and people started leaving.~~

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

~~A It took me about 10 or 15 minutes until the emergency vehicle come. We was all conversating. I talked about 5 minutes longer and went to the Liberation Club.~~

~~Q Who (went to the Liberation Club) with you?~~

~~A Maurice Jones, Nathaniel Ross and myself.~~

~~Q How long did you stay at the Liberation Club?~~

~~A 15 or 20 minutes.~~

~~Q~~ Then you walked back from there to the church?

~~A~~ That is correct.

Q With these same people, Maurice Jones and Nathaniel Ross?

A Just Nathaniel Ross.

Q What happened to Jones?

A I guess he went home. I left him on Castle Street.

Q Now you say when you got back you still saw Epps standing at 7th and Nun. Is that correct?

~~Q~~ Now go to the diagram there, if you would, and show the jury which side of 7th Street you say the barricades were on.

A Side of 7th Street?

Q Yes.

A (Pointing) They was in here.

Q And where did Volkswagen come from that you say passed along 7th Street?

A (Pointing) It was coming from towards Ann on 7th.

Q And now in which direction would Castle Street be from 7th Street?

A (Pointing) This direction, *South.*

~~Q~~ ~~South.~~ Is that correct?

~~A~~ That is correct.

~~Q~~ Now *when* you got to Castle Street I believe you *at*

I
said you saw the Volkswagen.

~~A That is correct.~~

I did tell the jury I
~~Q And didn't you tell the jury that you observed some~~
shot from the hood on the driver's side of the car?

~~A That is correct, too.~~

- Now when you got back to the church after you had gone on Castle Street following this car, did you go inside the church at that time?

A Not at this point. I made several stops.

~~Q You made several stops?~~

~~A Correct.~~

~~Q Where did you make these several stops?~~

~~A~~ I made a stop at the Barricades; then at the side window of the church facing the 7th Street side and then on the porch.

T
~~Q And then did you come on in?~~

~~A Yes, sir.~~

~~Q How long did you stay there at the barricade?~~

~~A~~ About 5 minutes at the most.

~~Q How long did you stay on the 7th Street side?~~

~~A~~ About the same; 5 minutes.

~~Q~~ And then that is when you went on into the church? You said you stopped on the porch. How long did you stop on the porch?

~~A~~ About the same; 5 minutes.

~~Q Who did you stop on the porch with?~~

~~A~~ When I was on the porch I was talking to Ann Shephard.

~~Q Anyone other than you and Ann Shephard talking on the porch?~~

~~A~~ There was others on the porch. Jerry Jacobs, Wayne Moore, Sonny Simpson, Dentry Walker, John Robinson; but Miss Shephard was the only one talking to me at the time.

~~Q~~ Now when you stopped at Miss Shephard's house was she living in Houston Moore?

~~A~~ That is correct.

~~Q~~ (How far is that from the church?)

~~A~~ I can't exactly say, Mr. Ferguson. I never counted the distance.

Q About 30 or 15 blocks, isn't it?

A I couldn't say.

Q Well wouldn't you say it is about a 20 or 30 minute walk from there to the church?

SOL. STROUD: Objection.

THE COURT: Overruled.

A Well possibly.

Q Now after you went inside of the church, do you know about how long you remained in the church?

A I remained in the church about - around - it was quite sometime. I can't exactly say. About 20 or 25 minutes.

Q What were you doing inside the church at that time?

~~A Talking,~~ ↓

~~Q Just talking individually with different people?~~

~~A Correct.~~

Q Did you see your good friend, Allen, in there at that time?

SOL. SPROUD: Objection to the form of the question.

THE COURT: Objection sustained as to the form of the question. (*Exception No. —*)

Q Did you see Allen Hall in there at that time?

A Well he came in later.

~~Q~~ ~~Came in~~ after you had been in there about 20 or 25 minutes?

~~A (Nods head yes.)~~

Q Now before that, before he came in there these 20 or 30 minutes after you had been in there, you hadn't seen him before that day. Is that correct?

~~A I hadn't seen him before that day?~~

~~Q You hadn't seen him before during the day?~~

A This is the first time that I had seen him.

Q So you were mistaken yesterday then when you told the jury you saw him on the porch as you were coming in.

SOL. JOHNSON: Objection.

A That is correct.

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

Q Didn't you testify on yesterday that you saw him on the porch when you came in?

A You was referring to Friday night, Mr. Ferguson.

Q I am talking about Saturday night now.

A I didn't make the statement that I seen him on the porch on Saturday night.

Q You did not? All right. Did you talk with him when he came into the church some 20 or 25 minutes after you had been there?

A Spoke. Didn't have a conversation. Later on probably did.

~~Q Later on when did you have a conversation with him?~~

~~A Later on that night. Not exactly at that time.~~

~~We couldn't conversate when he came into the church.~~

Q How long did he stay inside when he came into the church?

A As long as it took for Ben to make the speech that he made.

Q How long was that?

A I didn't time it, Mr. Ferguson.

Q Can you approximate how long it was?

SOL. JOHNSON: Objection.

A No, I can't.

THE COURT: Objection sustained. *(Objection Sustained)*

Q Then do I understand that immediately after this speech you say that Cha vis made that Hall left the church?

A Took a little time; not immediately.

~~Q What?~~

~~A Not immediately.~~

Q How long did he stick around after that?

A A few minutes, one or two minutes. *After that he left.*

~~Q One or two minutes after that he left?~~

~~A Right.~~

~~Q Did you leave then?~~

~~A I went outside.~~

~~Q Where outside did you go then?~~

~~A *Down* On the porch.~~

~~Q You didn't go any further than the porch?~~

~~A Not at that time. *✓* I went down to the sidewalk later on.~~

Q How much later on?

A Could have been a little longer.

Q ~~How~~ ^{do} ~~you~~ ^{not} have any idea what time this was?

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

Q All right now when was it that you and Hall had the conversation?

A Like I said it could have been later. It wasn't at this time.

Q ~~Well~~ ^{after} ~~you~~ ^{did} ~~went~~ ^{not} out on the porch, did you see Hall back in the church after that?

A ~~No,~~ ^{He} was outside.

Q ~~Did he come back to the church?~~

A ~~He~~ was outside with the group that was between the church and Templeton's house.

Q Well did you sometime after that come back in the church?

A Of course, I went back in the church sometime after that.

Q ~~All right, well, when?~~

A ~~After~~ the group had wnet up approximately to 5th and Nun, and I could no longer see them as good and I went back to the church.

Q So you just stood there on the porch watching the group go to 5th and Nun?

A I stood on the porch and seen them go to the inter-section of 6th and Nun and the two dudes go across

the street. They went up the block midway, and I went on up to the church.

Q And then how long after that was it before you say you saw Hall in the church again?

A I don't recall saying exactly when again I seen him. The next time that I recall seeing him, him and Marvin Patrick was arguing.

~~Q Now where in the church were you when you say you saw him and Patrick arguing?~~

~~A~~ I was carrying on a conversation with Ann Shephard, and there was more people that was seated on the floor by the front door of the church.

~~Q You were near the front door of the church all this time?~~

~~A~~ *I was* Right on the east side of the church *all this time.*

Q O K. Now after that were there anymore speeches made?

A I don't recall anymore being made because I wasn't in the presence if any was made.

~~Q You weren't in the presence if any were made?~~

~~A That is correct.~~

Q Then do I understand that you left the church after Hall and came back when you went down to 5th and Nun?

A No, I went inside the church, after the people was

down on the middle block of Nun, I returned inside of the church.

~~Q And then is that where you remained?~~

~~A For a while; not all night. I was in and out of the church approximately for quite sometime.~~

~~Q Just in and out of the church?~~

~~A That is correct.~~

~~Q You didn't have any weapon?~~

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

~~SOL. JOHNSON: Your Honor, I believe we are getting a little music through the intercom again.~~

~~(Speakers turned off.)~~

~~Q And you say you didn't throw any firebombs anywhere?~~

~~You say you didn't throw any firebomb anywhere?~~

~~A That is correct. I didn't throw no firebombs.~~

~~THE COURT: Speak up louder. That has been cut off. Speak up real loud.~~

~~Q You were just following the people outside and back inside and back inside and outside to see what they were doing. Is that right?~~

~~SOL. JOHNSON: Objection.~~

~~THE COURT: Overruled.~~

~~A Being curious.~~

~~Q ^{I was} You were just around there being curious?~~

~~A~~ Right. I stated the fact that I went with the crowd on Friday night.

~~Q~~ ~~Now were there some shots fired at the church while you were there?~~

~~A~~ There was quite a few shots fired at the church while I was there.

~~Q~~ ~~Where were the shots coming from?~~

~~A~~ I wasn't out there in the presence when they was coming. I can't exactly say *where they were coming from.*

~~Q~~ ~~You were never outside when the church was fired upon?~~

~~A~~ I was outside of the church that was fired upon Friday night, but as far as seeing where the shots come from I don't know.

Q Were there shots coming from passing cars being fired at the church?

A Well I never was - I never recognized any passing cars shooting at people while I was present.

Q Which direct were these shots coming from that were being fired at the church?

A Like I said, Mr. Ferguson, I was at the church when I heard shots, but I wan't in the presence. I was either inside the church -

Q All right, sir, now do I understand that the first

time you ever told anybody about what you say happened on Saturday night was in July of this year?

Is that correct?

A That is correct.

Q Now between February 5, 1971, and February whatever it was when you first talked to Mr. Walden in 1972, February of 1972, had you made any efforts to talk to any police officers about what you say happened at the church either on Friday or Saturday?

~~A What you mean made any requests to see them?~~

~~Q Yes, made any attempt to talk to them or tell them anything?~~

A No, I didn't make requests. I mean they came to me.

~~Q They came to you?~~

~~A I didn't make any kind of request. I don't make requests.~~

Q And you made the statement because you thought it might help you get some of your time reduced.

Is that correct?

A No, that is definitely wrong.

Q Do I understand that you talked to the police officers three time, that is, in February?

A I talked to Mr. Walden before February the 18th, a few days before; and then I talked to him the 18th.

Mr. Walden returned in March around the 1st or 2nd, and later Mr. Stroud and them returned.

~~Q~~ ~~When was that?~~ Mr. Stroud ^{did not come,} ~~came~~ back in March?

~~A~~ ~~No, they did not.~~ Only Mr. Walden returned in March when he brought the statement for me to sign.

Q Well after that did you talk to Mr. Stroud?

A A while after. It was a good while after.

~~Q~~ ~~Did you talk to Mr. Brown?~~

~~A~~ I have seen Mr. Brown.

~~Q~~ ~~Did you talk to them while you were in Onslow in maximum security?~~

~~A~~ I talked to Mr. Stroud while I was in Onslow.

~~Q~~ Was this in Onslow, or in Wilmington?

~~A~~ Onslow.

~~Q~~ He came over there to talk to ^{me,} ~~you?~~

~~A~~ ~~That is correct.~~

Q On how many different occasions?

A Only a few. How many I can't recall. It wasn't that many.

~~Q~~ Mr. Brown ^{came} ~~came~~ over there and talk to ^{me} ~~you~~ also?

~~A~~ A few times with Mr. Stroud.

~~Q~~ ~~Now you have talked with Allen Hall about this case, too, haven't you?~~

~~A~~ ~~No, I haven't talked with Allen about this case.~~

Q You have talked with him quite a bit, haven't you?

A Well no, I wouldn't say I talked with him quite a bit. We have conversations and that is ti. I mean, I wouldn't say I talked with him quite a bit.

Q You have talked with him since this trial began on September 11 on several occasions, haven't you?

A Ordinarily I talk with him when we come into the courtroom, Mr. Ferguson. I talked with him when we are together, but I am referring I don't discuss the case with him.

Q How often are you and Allen Hall together?

A How often?

Q Yes.

SOL. STROUD: Objection.

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

MR. FERGUSON: Like to have it put in the record.

THE COURT: Step down.

A We was in the same jail together. (Whispered)

Q You and Allen Hall are staying together during this trial, are you not?

SOL. STROUD: Objection.

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

Q I'll ask you if you and Allen Hall aren't sharing a room at the Blockade Runner on Wrightsville Beach.

SOL. STROUD: Objection.

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

A (Whispered) No.

Q Are you presently staying in any prison facility?

SOL. STROUD: Objection.

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

MR. FERGUSON: Like to have it put in the record.

THE COURT: Step down.

A (Whispered) No.

Q I'd like for you to tell the Court Reporter where you are staying anywhere other than the Blockade Runner Motel.

SOL. STROUD: Objection.

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

MR. FERGUSON: Like to have it in the record.

SOL. STROUD: May it be directed that she not divulge this record?

THE COURT: Put it in the record and I will rule on it.

SOL. STROUD: We object to this.

A (Whispered) Carolina Beach.

THE COURT: The motion of the State is allowed that you not divulge this information as to where he is staying now to anyone until after this trial is over.

MR. FERGUSON: Exception. *(Ex: p. 1017 No. 1)*

THE COURT: Proceed.

MR. FERGUSON: I have no further questions.

MR. HUNEVOL: Your Honor, I don't have any questions of this witness.

THE COURT: Do you have anything further?

SOL. STROUD: Your Honor, may we confer before the witness comes down? May we approach the bench, your Honor?

(Conference at the bench.)

THE COURT: Members of the jury, we are going to take our midmorning recess for about 10 or 15 minutes, and will you retire to your room?

(The jury retired from the courtroom.)

(The Court recessed from 10:58 until 11:30 A.M.)

THE COURT: Let the jury come out.

(The jury returned to the jurybox.)

MR. FERGUSON: Your Honor, if the State doesn't have any further questions of Mr. Mitchell we have a motion to make.

SOL. JOHNSON: We have some further questions.

MR. FERGUSON: All right. I will reserve my motion.

THE COURT: Mr. Mitchell, will you come back to the stand?

JEROME MITCHELL, witness for the State, already duly sworn, returned to the witness stand, testified as follows:

REDIRECT EXAMINATION BY SOL. STROUD:

Q ~~Now, Mr. Mitchell, you have testified I believe, that you observed John Robinson at the church. Is that right?~~

A ~~That is right.~~

Q When did you observe him at the church?

MR. HUENVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A On Saturday night and a few other times.

MR. HUNEVOL: Motion to strike and request instructions.

THE COURT: Wait until his answer and I will hear your motion. Had you completed your answer?

A I said on Saturday night and a few other times.

MR. HUNEVOL: Move to strike. Request instructions that it was gone over - not gone over by Mr. Ferguson on cross.

THE COURT: Denied. (Exception No. —)

Q Would you describe him, please?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A He is about 6 feet 1; could be a little taller, dark skinned; kind of high afro and slim person.

MR. HUNEVOL: Move to strike; request instructions.

MR. FERGUSON: Move to strike.

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

(State's exhibit "41 marked for identification.)

Q Mr. Mitchell, I hand you what has been marked for identification as State's Exhibit number "41", and ask you -

MR. HUNEVOL: Object.

Q If you can identify that please.

MR. FERGUSON: Objection.

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

A Yes, sir; this is a photograph of John Robinson.

Q Is that a fair and accurate representation of John Robinson as you recall him in February of 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. Move to strike. (Exception No. —)

A Yes, sir.

MR. BALLANCE: Move to strike.

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

SOL. STROUD: The State moves that this photograph be admitted into evidence as State's

Exhibit number "41".

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: State's Exhibit "41" is offered into evidence by the State and received for the purpose of explaining and illustrating the testimony of the witness and it is introduced for the purpose of explaining and illustrating the testimony of the witness and for no other purpose. *(Exception No. —)*

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

THE COURT: Yes, sir.

MR. FERGUSON: Objection.

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

(State's Exhibit "41" passed to the jury.)

MR. FERGUSON: Could we see that exhibit please?

(Exhibit is handed to Mr. Ferguson by Sol. Stroud.)

Q Now, Mr. Mitchell, on cross examination Mr. Ferguson questioned you concerning your being charged with and pleading guilty to murder and robbery. Is that correct?

MR. HUNEVOL: Objection.

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

Q Did the murder and robbery charge against you

that you pled guilty to, did they arise out of the same incident or out of different incidents?

A The same incident. The same incident.

Q And -

MR. FERGUSON: Object to this, your Honor.

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

Q During the robbery did you kill anyone?

MR. FERGUJSON: Object.

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

~~Q What was your answer?~~

A No, sir.

MR. FERGUSON: Objection.

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

A Who did?

A Zane Perkins.

MR. FERGUSON: We object to each one of those questions.

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

MR. FERGUSON: Motion to strike.

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

Q Were you present at the time Zane Perkins killed the deceased?

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

Q And you were participating in the robbery at that

time. Is that correct?

A Yes, sir.

MR. FERGUSON: Objection.

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

Q Have you ever killed anybody?

MR. FERGUSON: Objection.

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

A No, sir.

Q What was your answer?

MR. FERGUSON: Objection; move to strike.

THE COURT: Motion to strike is denied. (*Overruled*)

A No, sir.

Q Now did you testify at the trial of Zane Perkins
for the State of North Carolina?

MR. FERGUSON: Objection.

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

A Yes, sir.

Q No further questions.

THE COURT: Do you wish to ask him any questions?

RE CROSS EXAMINATION BY MR. FERGUSON:

~~Q~~ When did ^T the murder ^{took} take place?

~~A~~ In August around the 11th of August, 1971,

~~Q~~ August of what year?

~~A '71.~~

~~Q August of '71?~~

~~A Right.~~

~~Q You had a gun when you went to the man's store,
didn't you?~~

~~A Correct.~~

~~Q You took it inside of the store?~~

~~A Correct.~~

Q And it was your intention to use that gun if you
needed to while you were in there, wasn't it?

SOL. STROUD: Object to the intention.

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

Q You had in mind to kill that man in the store and
that is why you went into -

SOL. STROUD: Objection.

THE COURT: Objection sustained. *(Exception No. 2)*

Q The only thing is the other man got to it first.

SOL. STROUD: Objection.

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

Q How old was the man killed?

SOL. STROUD: Objection.

THE COURT: Overruled.

A I don't know.

Q You knew that man was 70 years old, didn't you?

SOL. STROUD: Objection.

(Exemption No. ---)

THE COURT: Sustained. He said he didn't know how old he was.

CROSS EXAMINATION BY MR. HUNEVOL:

Q The man that was killed was Mr. Futch. Isn't that correct; A former resident of Pender County.

SOL. STROUD: Objection.

THE COURT: Overruled.

A Yes, sir.

~~Q And the testimony down in Superior Court was by Perkins that you had blown him apart and not Perkins. Isn't that correct?~~

~~A I didn't understand your question.~~

Q The testimony by Perkins down in Superior Court when this was tried was to the effect that you had blown him apart with your shotgun.

SOL. STROUD: Objectio to the form of the question.

THE COURT: Sustained. (Exemption No. ---)

Q Did not Perkins in the Superior Court testify that you were the one that murdered Mr. Futch?

A Perkins didn't testify at the trial.

Q Perkins received 75 years for his complicity in this, didn't he?

SOL. STROUD: Object.

THE COURT: Objection sustained. *(Exhibit No. ...)*

Q At the time that you all blew Mr. Futch apart you had already taken his money, hadn't you?

SOL. STROUD: Objection.

THE COURT: Objection sustained as to the form of the question. *(Exhibit No. ...)*

Q At the time that Mr. Futch was killed you had already taken his money and were leaving the store. Isn't that correct?

A I haven't taken anyone's money.

Q ~~You deny that you took any money?~~

A ~~That is correct.~~

Q Why did you plead guilty to robbery?

SOL. STROUD: Objection as to why.

THE COURT: Overruled.

A Because I participated in it.

Q ~~Why did you plead guilty to murder?~~

A ~~Because I was in the presence when the man was killed.~~

Q And are you stating to this jury and this Court that you didn't participate in that murder or in that killing and in that robbery?

A I just stated to you, Mr. Hunevol, that I was in the presence, that I was participating.

~~THE COURT: Let him finish.~~

~~A As I recall I stated to you that I was participating
in the robbery.~~

~~THE COURT: I instruct counsel to let this
witness finish his answer.~~

~~MR. HUNEVOL: Your Honor, I thought he did.~~

~~A I was finished.~~

~~Q ^{I do} So you admit a participation in the robbery. Is
that correct?~~

~~A That is correct.~~

~~Q ^I Do you deny that ^I you participated in the murder of
Mr. Futch?~~

~~A I didn't kill anyone. ^o Of course, I deny it. The
murder and the robbery took place at the same time.~~

~~Q The question, Mr. Mitchell, was do you deny now that
you participated in the murder of Mr. Futch?~~

~~A If you are speaking on the basis that I have killed
someone, of course, I am denying.~~

~~Q So you are denying that you participated in his
murder?~~

~~A Well I explained that the murder and the robbery
took place at the same time.~~

~~Q And you were there with a loaded shotgun. Isn't
that correct?~~

SOL. JOHNSON: Objection. I withdraw the ob-

jection.

A That is correct.

Q ~~You~~ stated ~~also~~ on direct examination or redirect examination that ~~you~~ had never killed anyone. ~~Is that correct?~~

A ~~That is correct.~~

Q But you have on often occasions threatened to kill people, haven't you?

SOL. JOHNSON: Objection.

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

Q Are you denying right now that the State nol prossed the case with you in New Hanover County Superior Court 71-Cr14714? Do you deny now that you tried to kill Mr. McNoughton by hitting him in the head and that the State nol prossed an assault with a deadly weapon with intent to kill warrant against you?

SOL. JOHNSON: Objection.

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

Q Do you deny right now that you threatened -

THE COURT: Just a minute. You can ask him about what he testified to on direct examination, but you cannot read something from the files of some court. Anything further?

Q Have you ever before, Mr. Mitchell, attempted to

thwart the administration of justice by threatening to kill State's witnesses?

SOL. JOHNSON: Objection sustained. (Ex. A. L. No. 10. —) I have instructed you you may question him about anything that he testified to on redirect examination.

MR. HUNIVOL: Using that reasoning I will stop my questioning if the Court will direct the Court Reporter to strike out all the redirect examination, all the testimony brought out on redirect in light of the facts.

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

THE COURT: Yes, sir.

(Conference at the bench.)

THE COURT: Anything further of this witness?

MR. HUNEVOL: I will ask one question, and I anticipate the Judge is not going to permit the witness to answer that.

SOL. JOHNSON: Object.

THE COURT: Certainly, Mr. Hunevol, sustained as to a question you think is incompetent. (Ex. A. L. No. 10. —)

MR. HUNEVOL: O K. I won't ask it. No. —

MERTON WEISS, called as a witness for the State, being
duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

~~Q~~ ^{WU} ^{is} Would you state your name to the Court, please, sir?

~~A~~ Merton Weiss.

~~Q~~ ^{I am a} Are you a resident of Wilmington, Mr. Weiss?

~~A~~ Yes, I am.

~~Q~~ ^I Do you run a business in Wilmington?

~~A~~ Yes, I do.

~~Q~~ ^{This} ^{the} What business is that, please, sir?

~~A~~ Contessa Chinchilla Corporation.

~~Q~~ ^I How long have you been operating that business, please,
sir?

~~A~~ Approximately 4 and a half to 5 years.

~~Q~~ ^{I was} You were operating it in February of 1971?

~~A~~ Yes, sir.

~~Q~~ In February of 1971, ^I did you have a vehicle that
was used in connection with ^{my} your business?

~~A~~ Yes, I did.

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

~~A~~ It was a 1964 white Corvair van.

~~Q~~ And would you describe the vehicle, please?

~~A~~ It was a large square van, I'd say, it had probably
about 15 or 16 windows in it and a delivery type
truck.

~~Q And that was owned by whom?~~

~~A That was owned by the Corporation.~~

~~Q What is your relationship with the Corporation?~~

~~A I am the President of the Corporation.~~

~~Q Did you have the van in February of 1971?~~

~~A Yes, I did.~~

~~Q In February of 1971 were there employees with the Corporation under ^{my} supervision?~~

~~A Yes, there were.~~

~~Q Can you recall who they were?~~

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. 1)

A Well a John Robinson. There were several ladies, Marie Favorite and Dian Rivenbark; and there were also salesmen at the time; although I couldn't mention who was working exactly at that time.

~~Q Now would you describe John Robinson, please, sir?~~

~~A Well I would say he was a tall, thin colored man about 6 feet tall, rather lean, probably weighted about a hundred 75 pounds and at times he had long sideburns, and he did have a goatee at times. He was about, I think, 21 or 22 years of age.~~

~~Q Do you recall when he first came into your employment there at the Corporation?~~

~~A It was either late October or early November of~~