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said, "Rabbit"? ✓

A We was there by the garage where Willie Earl was standing behind.

Q What did Rabbit mean?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Deception No.)

A Rabbit was the pass word to keep each other from shooting each other whenever we were coming by and we have one posted in that area we would say Rabbit to let him know we were coming through, to let him know so he wouldn't shoot.

Q Would you come to the diagram again, please?

(Witness goes to the blackboard.)

Q Would you point out where Steve Corbett went to at 5th Street?

A He went to right here which would be the place right up in here.

~~Q Now after he came back from there, where did you go?~~

A We went back to Mike's Grocery. ✓

~~Q Where was the defendant Chavis when he said "Rabbit"?~~

A He said Rabbit just before we got up between right here by this house, then he started hollering "Rabbit".

~~Q Come back to the stand please.~~

(Witness returns to the witness stand.)

Q ~~Now who~~ went back to Mike's Grocery store?

A Myself, Steve Corbett and Ben Chavis.

Q Once you got back to Mike's Grocery store, what, if anything, occurred?

MR. BALLANCE: Your Honor, object.

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

A Then Chavis told him to go across the street and get the can of gas, and ~~all of us~~ *myself, Chavis & Corbett* went across the street, ~~and that is whenever~~ -

Q ~~All of us. Who is all of us?~~

A ~~Myself, Chavis and Corbett.~~

Q ~~Went across the street where?~~

A Facing 6th Street between the third and fourth house.

Q ~~That is where you went?~~

A Right.

Q ~~And did you see anyone there at that time when you got back?~~

A Yes, sir.

Q Who was that?

MR. HUNEVOL: Objection.

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

A Connie Tyndall, Jerry Jacobs, James McKoy and Marvin Patrick.

Q Did you see any others at that time?

MR. FERGUSON: Objection.

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

A. Joe Wright.

Q. ~~Where were these people,~~ These defendants that you have described?

A. ~~They was~~ ^{were} in the driveway between the third and fourth house.

Q. As you were crossing the street to go to the area between the third and fourth house, did you see any of the defendants at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

MR. BALLANCE: Object to the leading.

THE COURT: Objection sustained as to the leading.

A. I saw Reginald Epps and Wayne Moore.

Q. ~~Where were they?~~

A. Reginald Epps was walking in the street with a gun and Chavis told him to get out of the street and go on down there between the houses.

Q. ~~How about Wayne Moore? Where did you see him?~~

A. Wayne Moore was going behind the first house on Ann Street.

Q. Did he have a weapon with him at that time?

MR. FERGUSON: Objection to the leading.

THE COURT: Objection sustained.

Q What, if anything, did he have with him?

MR. BALLANCE: Objection.

THE COURT: Overruled. (Deption No. —)

A He had a rifle.

~~Q Would you point out the defendant Reginald Epps, please?~~

~~A~~ Reginald Epps is the one sitting on the back row behind Ben Chavis with the beige and dark brown knit sweater on.

~~Q And would you point out the defendant Connie Tyndall, please?~~

~~A~~ Connie Tyndall is the one sitting behind Mr. Ballance with the orange shirt on with the beard.

~~Q How about the defendant Jerry Jacobs? Would you point him out, please?~~

~~A~~ Jerry Jacobs is the one sitting behind the next attorney with the striped shirt on, grayish blue suit on with the dark blue wet jacket on.

~~Q Dark blue wet jacket on?~~

~~A Right.~~

~~Q And the defendant Wayne Moore, would you point him out please?~~

~~A~~ Wayne Moore is sitting behind Connie Tyndall with the maroon knit on.

~~Q Would you point out the defendant Joe Wright please?~~

~~A~~ Joe Wright is sitting on the far end in the middle of Marvin Patrick and James McKoy with the brown shirt on and tie.

~~Q~~ ~~Would you point out the defendant James McKoy please?~~

~~A~~ James McKoy is sitting on the far end with the dungarees on and the black knited sweater.

~~Q~~ ~~As you went back to the area between the third and fourth house on 6th Street that you have described, what, if anything, occurred at that time, please?~~

~~A~~ After Chavis had told Reginald Epps to go on between the house and Wayne Moore then Chavis then told us to go on across the street and firebomb Mike's and he told me to throw Willie Earl Vereen two firebombs and then he told me to take the can of gasoline with me.

~~Q~~ ~~Where was the can of gasoline at that time?~~

~~A~~ The can of gasoline was still sitting between the third and fourth house in the driveway.

Q What, if anything, did you observe about Joe Wright at this time, the defendant Joe Wright?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Explain the...)*

A Joe Wright had a gun and a pistol, and he had a field jacket with a white tape with a cross on the back of it, and he had this glue on the back of it that

would shine at night. He had bullets taped on the back of the jacket also.

~~Q Where was he at this time?~~

~~A At this time he was standing between the third and fourth house.~~

~~Q Did you see where, if any please, he went to?~~

~~A Yes, sir, ¹¹he went behind the fourth house between there.~~

~~Q Now ¹¹after Chavis made the statement that you have described about going to Mike's, what, if anything, did you do?~~

~~A Then we went across the street to Mike's Grocery,~~

~~Q Who is we?~~

~~A Myself, Harvin Patrick, James McKoy, Connie Tyndall and Jerry Jacobs.~~

~~Q Where was the defendant Chavis at that time?~~

~~A Chavis was standing on 6th Street facing Mike's.~~

~~Q Which side of the street was he on? ^{North}~~

~~A On the east side ^{of the street}~~

~~Q Across from Mike's?~~

~~A Right.~~

~~Q What, if anything, did he have in his possession at this time?~~

~~A He still had this .45 automatic.~~

~~^{OK,} Q How did he have it in his possession?~~

~~A He had it in his hand.~~

MR. HUNEVOL: Objection.

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

A He had it in his hand out.

~~Q~~ Out?

~~A~~ Right. Facing towards 6th Street.

Q What do you mean by "out"?

MR. FERGUSON: Objection.

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

A He was holding it in possession in case someone would happen -

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Sustained.

Q Would you show how he was holding the pistol?

MR. HUNEVOL: Objection.

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

A He had it out facing 6th Street. Would be facing this way. He had it out like that, and he told us to go ahead and throw the firebombs.

~~Q~~ When you and the defendants Patrick and McKay and Tyndall and Jacobs went over to Mike's what portion of Mike's did you go to?

~~A~~ We went to the front of Mike's.

~~Q~~ On what street?

~~A~~ Facing 6th Street.

Q And was there anyone else with you at this time?

MR. HUNEVOL: Objection.

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

A Just Marvin Patrick, Jerry Jacobs and James McKoy, Connie Tyndall.

Q When you got across the street in front of Mike's what, if anything, was said by any of these defendants that you have described?

MR. HUNEVOL: Object.

MR. BALLANCE: Object.

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

A I didn't have any matches. So I asked Marvin Patrick for some matches.

Q Prior to that time had the defendant Chavis said anything?

MR. FERGUSON: Objection.

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

A Yes, sir.

~~Q What did he say?~~

~~A~~ He told us to go ahead and throw the firebombs in the store.

~~Q~~ Did you get ^{some} any matches?

~~A~~ Yes, sir.

Q What, if anything, occurred after you got the matches?

MR. HUNEVOL: Objection.

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

A After we got the matches the firebombs were lit and thrown into the store.

Q Now who threw the first firebomb, if you know?

MR. HUNEVOL: Objection.

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

A I did, as I remember.

~~Q Pardon?~~

~~A I did, as I recall.~~

Q And what, if anything, did you do prior to throwing the firebomb?

~~A Afterwards?~~

~~Q No, before.~~

A Nothing.

Q Who lighted the firebomb?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Objection sustained.

Q Did anyone light the firebomb?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir,

~~Q Who?~~

~~A Connie Tyndall.~~

Q Which firebomb were you talking about?

MR. FERGUSON: Objection to the leading.

MR. HUNEVOL: Objection.

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

A The first firebomb.

Q What did the firebomb look like?

MR. HUNEVOL: Objection.

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

A It was in a wine bottle which had a wick and gasoline.

~~Q What kind of wick?~~

~~A Cloth.~~

Q Where was the wick?

A The wick is in the neck of the bottle and used the wick for the light.

MR. BALLANCE: Objection.

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

A To light one.

Q Before the firebomb was lit what, if anything, did you do with the firebomb?

MR. BALLANCE: Objection.

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

A After the firebomb was lit I threw it.

MR. HUNEVOL: Objection.

MR. FERGUSON: Move to strike.

THE COURT: Objection sustained; motion to

strike allowed.

Q Before the firebomb was lighted what, if anything, did you do with the firebomb?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Exception taken)*

A Before the firebomb was lit I took the firebomb and then turned it up so a little bit of gas could come down to the wick.

~~Q And then what occurred?~~

~~A And then the light occurred.~~

~~Q What was lit as to the firebomb?~~

~~A The wick was lit.~~

Q And what, if anything, did you do with the firebomb once the light was struck on it?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception taken)*

A Then I threw it into the window.

~~Q Which window did you throw the firebomb into?~~

~~A To the window facing 6th Street which would be the second window.~~

~~Q Upstairs or downstairs?~~

~~A Upstairs.~~

Q Now would you stand over here just a moment please and describe how you threw the firebomb?

(Witness goes down before the jurybox.)

A I was standing like this here (indicating) and the firebomb I threw underhanded like that.

Q And was there any particular reason at this time why you would throw it underhanded?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

~~A When Chavis -~~

~~Q Have a seat up here just a minute.~~

(Witness goes back to the witness stand.)

A Whenever Chavis had showed me how to make firebombs he told us how to throw firebombs also.

Q Do you recall when defendant Chavis told you how to make firebombs?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q When?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A On Friday night.

Q Where were you Friday night?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A On 5th.

Q Did he show you any other firebombs?

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

A Yes, sir; he also showed us again that Friday night and that there Saturday afternoon.

~~Q~~ This was before that Saturday night. ~~Is that right?~~

~~A~~ Yes, sir.

Q Mr. Hall, do you recall when the defendant Chavis first told you how to make the firebombs and how to throw it?

MR. FERGUSON: Objection.

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

A Yes, sir.

~~Q~~ When was that?

~~A~~ It was on a Friday.

~~Q~~ Where were you at that time?

~~A~~ At that time I was at the back of the church at the air conditioner unit.

Q Were any of these defendants present other than you and the defendant Chavis at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A No, sir.

Q Now do you recall the instructions he gave you at that time as to how to make a firebomb?

MR. FERGUSON: Objection.

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

A Yes, sir.

MR. BALLANCE: Your Honor, may we approach the bench?

THE COURT: Yes, sir.

(Conference at the bench.)

THE COURT: Who objected to this last question?

MR. HUNEVOL: I did.

MR. FERGUSON: We did.

THE COURT: Members of the jury, you will not consider this testimony as to what, if anything, Mr. Chavis did or said to this witness on Friday night as against Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore, Wright and Shepard. You will not consider this testimony as evidence against either of those defendants, that is, Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore, Wright and Shepard.

Q Using this bottle -

THE COURT: Objection as to Mr. Chavis is overruled. *(Exception No. —)*

Q Using this bottle and this rag, would you describe and show to us without using gasoline how the defendant Chavis told you to make firebombs?

A Yes, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Objection.

THE COURT: Members of the jury, now objection is sustained as to Patrick, Tyndall, Jacob, Vereen, McKoy, Epps, Moore, Wright and Shepard. You will not condiseer this testimony received against the defendants Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore, Wright and Shepard.

The objection as to Mr. Chavis is overruled. *(Exception)*

A He first told that to - you put the gasoline in the bottle and fill it right along up here but not up to the neck or too far up to the neck because it would make the fire run more quicker to the rag to the neck of the bottle, and explained. Then he told me to take the rag and not to have the rag too loose or either too tight, to take it and put it in like this here. (Illustrating) And he said whenever the rag gets right along here, this much in the gasoline, he said whenever you get ready to throw the firebomb to take it and turn it up like this here and turn it back up and then a little bit of gas will run on it like to have enough where you can light it add it will stay lit. Then he said not to take the firebomb and throw it overhanded because it could catch hold your hair or either some of the gas would

drip and catch hold to you. And he said by holding it up, reach up to the neck of the bottle and explode in your hand, he said whenever you throw them it is best to have someone else to light it because it is hard to light it and throw it at the same time. He said after it is lit to always throw it underhand and to never throw it overhand.

MR. FERGUSON: Object; move to strike.

MR. HUNEVOL: Move to strike.

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

Q Now prior to the evening of February 5, when you say the defendant Chavis told you how to make a firebomb and how to throw one, had you ever seen a firebomb before?

A No, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

Q Had you ever learned how to make a firebomb?

A No, sir.

MR. BALLANCE: Object.

THE COURT: Members of the jury, Members of the jury, you will not consider this testimony as against Patrick, Tyndall, Jacobs, Vereen, McKoy, Epps, Moore, Wright and Shepard. (*Exemption No. —*)

Q Did you ^{not} know what a firebomb was prior to that February 5, 1971?

A ~~No, sir.~~

Q Let's get back to Saturday evening at Mike's. After you threw the first firebomb at Mike's, where did you say you threw it?

MR. FERGUSON: Objection.

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

A Into the second window facing 6th Street.

Q Would you come and point that out, please?

(Witness goes to the blackboard.)

MR. FERGUSON: Objection.

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

A It would be right here.

Q All right. Thank you. Come back to the stand, please.

(Witness returns to the witness stand.)

Q When you threw that firebomb at that window, what, if anything, occurred?

MR. BALLANCE: Object.

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

A The firebomb went on the inside of the store.

~~Q And at the time it went on the inside of the store what was it's condition at that time?~~

~~A It was burning.~~

Q ~~And were~~ other firebombs ^{were} thrown after you ^I threw that one?

A ~~Yes, sir.~~

Q ^I Did you throw anymore firebombs?

A Yes, sir.

Q ~~How many more did you~~ ^I throw?

A ^{Two.}

Q ^I Did you ^{not} throw them at this time right after you threw the first one?

A ~~No, sir.~~

Q The other defendants that you have described, Patrick, Tyndall, McKoy and Jacobs, did they throw any firebombs?

A Yes, sir.

MR. FERGUSON: Object to the leading.

THE COURT: Objection sustained as to the leading.

Q What, if anything, did those defendants do?

MR. FERGUSON: Object.

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

A They also throwed firebombs.

THE COURT: Who did you say?

A Patrick, Jerry Jacobs, McKoy and Connie Tyndall.

Q Did you observe them when they threw the firebombs?

MR. FERGUSON: Object.

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

A Yes, sir.

~~Q~~ Do you know how many firebombs Marvin Patrick threw?

~~A~~ Marvin Patrick threw two.

~~Q~~ How did ^{he} throw them?

~~A~~ Underhand.

~~Q~~ And where did they hit, if you know?

~~A~~ Into the window of the store.

~~Q~~ Upstairs or downstairs?

~~A~~ Upstairs.

~~Q~~ And how about the defendant Tyndall, did he throw firebombs?

~~A~~ Yes, sir.

~~Q~~ How did he throw?

~~A~~ He threwed his underhand into the store.

~~Q~~ And how about the defendant Jacobs and the defendant McKoy?

~~A~~ They throwed theirs underhanded into the top window of the store.

~~Q~~ When did you throw the other two firebombs that you have described?

~~A~~ Last.

~~Q~~ Where were the other defendants at this time, if you know?

~~A~~ They was standing on the sidewalk with their guns.

MR. FERGUSON: Move to strike.

THE COURT: Motion to strike denied. (Excerpt)
Do. —

Q ~~What did you do when you threw the firebombs?~~

A After I threw the firebombs Chavis tole me to throw the gasoline on the door to the store.

Q At the time that you threw the last two firebombs, ~~where did you throw them?~~

A I throwed one of them - dropped back on the sidewalk and burst and the other one went into the window.

Q The one that dropped down on the sidewalk where did it hit, if you know?

A Hit on the sidewalk.

Q Did it hit anywhere priot to that?

A No, sir.

Q When you threw it, where did it go?

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Ex. p. 111. —)*

A Whenever I threw it it went up there by the window, but it didn't go in, and whenever it came back down it hit the sidewalk, and ~~before it had fell it had went out.~~

Q Before it hit the sidewalk? *it had went out,*

A Yes, sir.

Q ~~Did all of the other firebombs go into the windows?~~ *went*

Q ~~Or where did they go?~~

A Into the windows.

Q ~~All of them?~~

A Yes, sir.

Q ~~Now after you threw the firebombs, what, if anything did you do?~~

A Then I pulled the gasoline to the door of the store.

Q And what, if anything, did you say the defendant Chavis said before then?

MR. BALLANCE: Objection; repetition.

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

A Chavis after I threw the firebombs and the one had bursted, Chavis then told me to pour the gasoline on the front of the store.

Q ~~What did you do?~~

A I poured gasoline at the front of it.

Q ~~And where was the defendant Chavis at this time?~~

A He was still standing in the same spot across the street.

Q And how long approximately did it take you from the time you first got in front of Mike's until the time you poured the gasoline on the front door?

A No more than 2 or 3 minutes.

Q ~~After you poured the gasoline on the door, what, if anything, did you do?~~

A Then I picked up a piece of trash paper on the side of the street and then I lit it and I throwed the paper on the door where the gas had been poured at.

Q Where were the four defendants at this time that

you say went across the street with you?

A Well whenever I had lit it and throwed the paper,
they went into position.

~~Q Into position where?~~

~~A~~ On the same side of Mike's back in the little sort
of wooded area and then bewteen the houses.

~~Q On what street?~~

~~A~~ On 6th Street.

~~Q Where did you go?~~

~~A~~ Then I went - Chavis called me back across the Street.

~~Q What, if anything, was said or done at that time?~~

~~A~~ Then Chavis told me to come on and go on back to the
church with him.

Q Was anything else said at this time?

A He said that they will probably be doing a whole lot
of running and going through close spots and that
I couldn't run as fast as the rest of them.

MR. FERGUSON: Motion to strike.

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

~~Q~~ At the time you crossed the street to where the
defendant Chavis was, what was the condition as to
Mike's Grocery store at that time?

~~A~~ It was burning.

~~Q Where was it burning?~~

~~A~~ Top and bottom.

Q ~~Where were the flames?~~

A ~~The flames were coming from the inside of Mike's and on the outside at the bottom.~~

Q ~~After you came across the street and talked with the defendant Chavis what, if anything, was done?~~

A ~~Then we went back to the church.~~

Q ~~Who?~~

A ~~Myself and Ben Chavis.~~

Q ~~How did you go back to the church?~~

A ~~We walked back through the path.~~

Q ~~What path?~~

A ~~Through the path between the third and fourth house.~~

Q The Same way you had come?

A Yes, sir.

MR. BALLANCE: Object to the leading.

THE COURT: Objection sustained.

Q At the time that you came across the street to where the defendant Chavis was and going back to the church, what, if anything, did the defendant say with regard to Mike's Grocery?

MR. BALLANCE: Objection, your Honor; leading again.

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

A That it was burning beautifully.

Q Did he say anything else?

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

A That we had did a good job and "Come on, let's go on back, to the church."

at that time,
Q ~~Who was the defendant Chavis talking to at that time?~~

A ~~He~~ was talking to me after he called me back across the street.

No
Q ~~Did anyone else~~ *went* go back to the church at this time?

A ~~No, sir.~~

Q ~~Where did you go~~ *I* when you arrived in the area of the church? *I went*

A ~~Into the church.~~

T
Q ~~And where did the defendant Chavis~~ *went* go?

A ~~Into the church.~~

Q Did you see any of the other defendants in church at this time?

MR. HUNEVOL: Objection.

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

A No one but Ann Shepard.

T
Q ~~Were there other people in the church at this time?~~

A ~~Yes, sir.~~

75
Q ~~Approximately how many people were in the church at this time?~~

A ~~I'd say around 75.~~

Q ~~What was the next thing that occurred that you recall?~~

A Then Reginald Epps came back, running back, to the church and said that some brothers' houses was on fire; and so then Chavis told all of us to come on, to let's go out there and get the furniture out of the houses.

Q What does brothers mean?

A Black people's houses was on fire.

Q How long after you had thrown the firebombs at Mike's Grocery store, approximately how long was it before you say the defendant Reginald Epps came back into the church?

A Approximately 10 or 15 minutes.

Q During this time did you hear anything while you were in the church?

MR. BALLANCE: Objection.

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

A Yes, sir.

Q What?

A There was gunfire.

Q Could you tell where it was coming from?

MR. FERGUSON: Objection.

THE COURT: Objection sustained as to the form of the question.

Q Where was it coming from if you know?

MR. FERGUSON: Objection.

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

A It was coming from 6th Street.

MR. FERGUSON: Move to strike.

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

Q During that 10 or 15 minutes, did you see any of the other defendants in the church?

MR. FERGUSON: Objection.

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

A No one but Ann Shepard.

Q During that period of time did you have any conversation with any of the defendants in the church?

MR. FERGUSON: Objection.

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

A No, sir. Ann Shepard and George Kirby and them was talking and I was over there talking to Dentry Walker at this time

Q Now after the defendant Epps came to the church and after the defendant Chavis made the statement that you say he made, what, if anything, did you do?

A Then we came out to 6th and Ann.

Q Who is we?

A Myself, Chavis, Reginald Epps and some others at the church.

MR. HUNEVOL: Objection.

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

MR. HUNEVOL: Move to strike.

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

~~Q You came out to where?~~

~~A~~ *We* Came out to 5th and Ann through the path,

Q Would you describe or would you come to the diagram and show where you were and how you got there please?

(Witness goes to the blackboard.)

A We came between - right back up in here. We came right between here between the fourth and fifth house where there is a small walkway between the small alley. The area back up in here is clear, but the path runs through there, but we made a path from back here between the house right up in here of our own.

~~Q Where did you go to?~~

~~A~~ We came back up to 6th Street and standing right along up in here came right along up in here.

Q All right. If you will, come back to the stand please.

(Witness returns to the witness stand.)

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

(Conference at the bench.)

THE COURT: (to witness) Would you step down please?

(Witness steps down from the witness stand.)

THE COURT: Members of the jury, we are going to take a recess now for lunch until 2:15. May I again caution you not to discuss these cases with you nor allow anyone to discuss it in your presence. Do not discuss it among yourselves. Members of the jury, you go now to lunch. Come back at 2:15.

(The Court recessed from 12:40 until 2:30 P M.)

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

(Conference at the bench.)

(The jury returned to the jurybox.)

ALLEN HALL, witness for the State, having already been duly sworn, returned to the witness stand, and testified as follows:

DIRECT EXAMINATION BY SOL. STROUD Continues:

Q Now after the defendant Epps came back to the church, who left the church at that time?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Says Law No. ...)*

A Myself, Ben Chavis, Reginald Epps and others at the church.

~~Q And where did you go?~~

~~A We went to 6th Street~~

~~Q Where on 6th Street?~~

~~A On the west side of 6th Street.~~

Q And what was the situation on 6th Street at that time?

A There was Mike's Grocery on fire and this house was on fire (indicating) and there was shooting.

Q What house are you talking about that was on fire?

A The black lady that stayed next to Mike's.

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

A *It was a one-story house*

Q Would you point on the diagram where that house is please?

(Witness points)

A That house it would be right here.

Q ~~If you will, come back to the stand please.~~

(Witness returns to the witness stand.)

Q ~~How much of Mike's Grocery was on fire at that time?~~

A ~~All of Mike's was on fire.~~

Q And how about the one-story house next to Mike's on 6th Street?

A The fire was at the back of the house.

Q ~~And where were you standing in relation to that one-story house when you came back out on 6th Street?~~

A I was standing in the middle of 6th Street.

Q ~~From where you are sitting just take the ruler and point where you were.~~

A (Pointing) I was standing right along in there.

Q ~~Now who was with you at that time?~~

*Ben Charvat with me
Harvey Patrick were*

~~A Ben Chavis.~~

~~Q If you will, turn back around. Anyone else?~~

~~A Ben Chavis and Marvin Patrick,~~

Q Were there any of the other defendants there at that time that you observed?

MR. HUNEVOL: Objection.

THE COURT: Overruled.

MR. FERGUSON: Objection.

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

A No, sir.

Q And what did you do once you arrived in that area?

A The first thing we did was Chavis called to me and Chili to observe a body being drug on the sidewalk.

MR. FERGUSON: Move to strike.

THE COURT: I didn't hear the answer.

~~Q If you will restate that please.~~

~~A Chavis called to me and Chili and we observed a body was being dragged on the sidewalk.~~

~~Q Where?~~

~~THE COURT: Do you object to it?~~

~~MR. FERGUSON: We move to strike it.~~

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

~~Q Where was the body being dragged?~~

A The body was dragging on the east side of 6th Street towards the north side.

Q Who was dragging the body?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Two ^{police} officers.

~~Q What type of officers?~~

~~A Police officers.~~

~~Q Were they in uniform?~~

~~A Yes, sir.~~

~~Q~~ ^{not} Could you tell who it was that they were dragging?

~~A No, sir.~~

Q Was there anything about the body at that time that you can recall to describe at this time?

MR. FERGUSON: Objection.

THE COURT: Overruled; go ahead. (Exception No. —)

A All I know is that at that time whoever it was they had on black.

~~Q Now where was the body dragged?~~

~~A~~ The body was dragged from the - I observed the body being dragged from the second house coming up 6th Street and going towards the last house on the corner of Ann Street.

Q Would you take the yardstick now, please, and indicate where you first saw the body being dragged and where it was dragged to on that diagram?

A (Pointing) The body was - I observed the body being

dragged right along in here.

~~Q~~ On the sidewalk?

~~A~~ Yes, sir.

~~Q~~ And where was it dragged to?

MR. FERGUSON: We object to this whole line of questioning.

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

~~A~~ The body was dragged around the corner on Ann Street.

~~Q~~ ~~Where were you at that time?~~ When you first saw the body being dragged, ~~where were you?~~

~~A~~ I was right here. (Pointing)

~~Q~~ ~~Then what, if anything, did you do out on 6th Street?~~

~~A~~ Then we started getting the furniture out of the people's houses.

~~Q~~ ~~Which houses?~~

~~A~~ The first, and second and third house.

~~Q~~ ~~Would you point out the houses on there please?~~

~~A~~ (Pointing) This house and this house and this house right here.

~~Q~~ During this time that you were taking furniture out of the houses, did you hear anything?

~~A~~ Yes, sir.

MR. HUNEVOL: Objection.

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

Q What did you hear?

MR. HUNEVOL: Objection.

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

A Gunshots.

~~Q Could you tell where they were coming from?~~

~~A Coming from the back of those houses in the wooded area.~~

~~Q Back of what houses?~~

~~A The two houses that was burned down.~~

~~Q Would you point where that area would be generally please?~~

~~A That area would be right back in here. (Pointing)~~

~~Q Prior to that time had you heard any gunfire?~~

~~A Yes, sir.~~

~~Q Could you tell where it was coming from?~~

~~A It was coming out of that area also.~~

Q Did you hear gunfire coming from any other area at anytime?

MR. HUNEVOL: Objection.

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

A The gunfire was coming from Ann Street at the time after I had arrived up there.

~~Q Now up until the time that you started moving furniture out of the houses, did you see anyone firing a weapon of any kind?~~

~~A~~ After we - ?

Q Before you started moving the furniture, did you see anyone firing weapons of any kind?

MR. FERGUSON: Objection.

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

A No, sir.

~~Q~~ Who was moving furniture out of the houses?

~~A~~ Myself, Ben Chavis, Marvin Patrick and some others that came to the church and some of the small children that was in the church *was moving the furniture out of the house, we*

~~Q~~ During the time *we* you were moving furniture out of the houses, did you see any of the other defendants besides Chavis and Patrick?

~~A~~ Yes, sir.

~~Q~~ Who?

~~A~~ *I saw* Joe Wright, Wayne Moore and Connie Tyndall.

~~Q~~ Where were they and what were they doing?

~~A~~ They had a garden hose putting water in the garbage cans.

~~Q~~ And what else, if anything, were they doing at that time?

~~A~~ *They were* Throwing water on the house across the street where the telegram pole was on fire.

~~Q~~ What house were they throwing water on?

~~A~~ (Pointing) It would be this house right here.

Q They were throwing water on that house?

A Yes, sir, because the top of it was smoking and the telegram pole which is right in here was on fire.

Q ~~How long were you moving furniture out of those~~ ^{We were} houses?

A Around 15 minutes or longer.

Q During this time from the time you first arrived there and during the time that you were moving out the furniture, did you hear anyone say anything?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Only one of the ladies that was living in the house.

Q What did she say?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Whenever -

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A She had mentioned something - I heard them mumbling something.

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A I heard her -

MR. HUNEVOL: Objection.

THE COURT: Are all of you objecting?

MR. BALLANCE: He said he heard a mumbling sound.

MR. FERGUSON: He hasn't identified anything.

MR. HUNEVOL: As far as I know she is not in court.

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

A Whenever we first went to the house and I wasn't standing close to the lady, the first time I didn't quite understand what she was saying until we got close up to her and then -

~~MR. FERGU~~

MR. FERGUSON: Objection.

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

A Then she said she had just got her furniture for Christmas and that her house, you know, all her clothes and stuff were burned up, and she said how was she going to make it then, you know; and then she said to try to get some of her children's clothes out of the house upstairs, you know.

MR. FERGUSON: Move to strike that, your Honor.

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

MR. BALLANCE: Move to strike; ask for instructions

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

Q During this time did you hear another lady saying anything?

MR. FERGUSON: Objection.

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

A Yes, sir.

~~Q What was she saying?~~

~~A~~ She was hollering, "Y'all put those guns down."

Q How many times?

MR. FERGUSON: Object.

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

A Three or four times.

~~Q Where was she? Do you know?~~

~~A~~ I estimated that she was right here at the second house.

~~Q~~ Did you ^{not} see her?

~~A~~ Not clearly.

Q Did you see anyone with weapons when you arrived in that area?

MR. FERGUSON: Objection.

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

A The weapons that Marvin Patrick, Ben Chavis and myself had.

~~Q~~ You still had ^{my} weapons?

~~A~~ Yes, sir.

Q Now during the time that you were there moving furniture out of the houses, what portion - where were you when you were bringing the furniture out?

A We was bringing it out, putting it in the middle of the street, across on the other side of the

street or leaving some of it right there on the sidewalk.

Q During this time ¹ did you see any police officer or firemen?

A Yes, sir.

Q Where?

A On Ann Street.

Q Where on Ann Street?

A 6th and Ann.

Q Did you see any fire trucks?

A Yes, sir.

Q Where were they?

A The fire truck was also parked on 6th and Ann.

Q What were the firemen doing, if you know?

A The firemen was spraying water trying to get to the houses.

(State's Exhibits 25 and 26 marked for identification.)

Q I hand you what has been marked for identification as State's Exhibit number 25 and ask if you can identify that, please.

A Yes, sir.

Q What is it?

A This is the firemen standing on 6th and Ann spraying water towards Mike's Grocery and the garage that

was on fire in the back area of Mike's.

Q Now does that photograph fairly and accurately represent the fire at Mike's as you saw it on the evening of February 6, 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q I hand you what has been marked for identification as State's Exhibit number 26 and ask you if you can identify that please.

A Yes, sir. This here is 6th and Ann showing the house with the steeple and where Mike's Grocery were after it was burned down.

Q Does that photograph fairly and accurately portray that area as it was on the evening of February 6, 1971?

A Yes, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

SOL. STROUD: May it please the Court, the State would move that these photographs be admitted into evidence as State's Exhibits number 25 and 26.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Members of the jury, State's Exhibits 25 and 26 are offered at this time by the State and received into evidence for the purpose of illustrating and explaining the testimony of the witness if you, members of the jury, find that it does illustrate and explain the testimony of the witness. They are not substantive evidence. *(Exception No. ---)*

Q Mr. Hall, on State's Exhibit number 25 where the firemen are standing there, what Street is that?

A Where they are standing is Ann Street.

~~Q Would you point out there that would be on this diagram please?~~

~~A~~ That would be right in here. *(Pointing)*

~~Q And do you see any houses in that photograph?~~

~~A~~ Yes, sir, *U* you can sort of see the houses and the house with the steeple and you can sort of see the houses from Ann Street, the ones that is on 6th Street.

Q Point out on that diagram what houses are shown in that photograph.

A *(Pointing)* You can see this house right here with the steeple and you can just barely see these two

houses right here.

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

(Passes Exhibits to jury.)

~~Q~~ ~~Mr. Hall~~, after you finished moving the furniture
out of the houses what, if anything, did you do?

~~A~~ Then went behind the houses in the wooded area and
were shooting at firemen and police officers.

~~Q~~ Who went with you behind the houses?

~~A~~ ~~Myself~~, Marvin Patrick, Ben Chavis.

~~Q~~ Would you point them out please?

MR. FERGUSON: Objection.

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

~~A~~ Marvin Patrick with the beige suit on, Ben Chavis
with the black suit on.

~~Q~~ Now where did you go behind the houses?

~~A~~ Behind here in this area right around here. (Pointing.)

~~Q~~ And was there anyone back there when you arrived?

~~A~~ Yes, sir.

~~Q~~ Who?

~~A~~ Willie Earl Vereen, Jerry Jacobs, Reginald Epps and
Wayne Moore.

~~Q~~ Would you point them out please?

MR. FERGUSON: Objection.

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

A Willie Earl Vereen is the one with the blue sweater on. Jerry Jacobs is the one with the blue wet leather coat on, and Wayne Moore is the one one with the maroon knit on and Reginald Epps is the one with the beige and brown striped knit on.

~~Q Where were they when you went back there?~~

~~A~~ They was already back there in the area.

Q What, if anything, were the four of them doing when you got back there?

MR. FERGUSON: Objection.

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

~~A~~ Shooting.

~~Q~~ Shooting in what direction?

~~A~~ Shooting in the direction of 6th and Ann, direction where the firemen and policemen were.

Q Point out on there where that would be.

A (Pointing) That would be right up in here.

~~Q~~ Did you see firemen and policemen up in that area that you just pointed out?

~~A~~ Yes, sir.

Q How could you tell they were firemen and policemen?

MR. FERGUSON: Object.

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

A Whenever we were back in that area after the rest

of them came back there, after Ben Chavis and Marvin Patrick went back there - there is a small tin garage that is sitting right between in here and the firemen knocked the back of the tin of it out, and they was coming across over in there, and we observed them coming in there, and then we shot, and I seen fireman drop down whenever they were coming in.

~~Q~~ Now after ^{we} ~~you~~ arrived in that area back there, ~~did~~ ^{Some of them did} any of the other defendants come back there?

~~A~~ Yes, sir.

Q Who?

A Connie Tyndall and James McKoy and Joe Wright.

~~Q~~ MR. FERGUSON: Move to strike.

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

Q Now would you point them out please?

A Joe Wright is the one sitting on the front end in the middle with the brown shirt and brown tie and James McKoy is the one sitting behind Connie Tyndall with duggarees on and the black knit sweater, and Connie Tyndall is the one with the orange shirt on with the beard and with the thing around his neck.

(State's Exhibits 27, 28 and 29 marked for identification.)

Q I hand you what has been marked for identification

as State's Exhibit 27 and ask you if you can identify that please.

A This is the area where on Ann Street, Ann Street side, where Mike's Grocery was burned; the garage that was next to Mike's where was burned and two houses that was also burned.

Q Does it show anything else?

MR. FERGUSON: Objection.

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

A And it shows the house with the people.

Q Is that photograph a fair and accurate representation of the area behind those houses as it was on the evening of February 6, 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir. Just put bushes was that thick and this here next two-story house was also scorched.

MR. FERGUSON: Move to strike that.

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

Q Had you what has been marked for identification as State's Exhibit 23 and ask if you can identify that please.

A Yes, sir; this here is the small tin garage that the firemen tore the back of it out to come across here

This is the house with the people in it, and this here is the garage in the middle, and this is another two-story house facing Ann Street.

Q Is that photograph a fair and accurate representation of the tin garage that you are speaking of as it was on the evening of February 6, 1971?

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q I hand you what has been marked for identification as State's Exhibit number 29 and ask if you can identify that please.

A Yes, sir. This here is the alley, the driveway rather, that goes to this little garage and the back where the back is tore out and right along up in here is where the firemen went down on the ground.

Q — Is that photograph ¹⁰ a fair and accurate representation of the alley between the houses and the tin garage as it was on the evening of the 6th of February, 1971?

A — Yes, sir.

Q Now with regard to the photograph marked as State's Exhibit number 28, were those people there on the evening in question, February 6, 1971?

MR. FERGUSON: Objection.

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

Q Do you understand what I am talking about?

MR. FERGUSON: Objection. *(Chapter 15. -)*

A Were they living there?

Q Were they out on the porch like they are in that photograph?

A No, sir.

SOL. STROUD: Your Honor, the State would move that these three photographs be introduced into evidence as State's Exhibits number 27, 28, 29.

THE COURT: Stat'e Exhibits 27, 28, 29 are offered by the State and received in evidence for the purpose of illustrating and explaining the testimony of the witness if you, the jury, find that it does illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence.

Q In this photograph, State's Exhibit number 27, would you point out the wooded area where you were talking about you and the other defendants were?

A The wooded area is right back in here, but it wasn't that thick there.

~~Q Where is Ann Street? Where would Ann Street be in relation to this?~~

~~A This right here would be Ann Street.~~

~~Q Would you show that to the defendants please?~~

A This right here would be Ann Street side. This right here would be where Mike's and the houses were burned down. This right here was the area where we were shooting at back up in here.

Q ~~Is that where you were?~~

A ~~Yes, sir.~~

~~MR. FERGUSON: I haven't seen that.~~

~~THE COURT: Show it to Mr. Ferguson.~~

A The wooded area is right there.

Q Now when you and the nine defendants that you have described were in the wooded area back there, what, if anything, did you all have in your possession?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Scription de...)*

A Guns.

Q What, if anything, were you doing with the guns while you were back there?

MR. FERGUSON: Objection.

THE COURT: Overruled. *(Scription de...)*

A Firing at the police and firemens.

Q Did you fire your gun?

A Yes, sir.

Q How many times did you fire your gun?

↓

~~A~~ Several times *in*

~~Q~~ In what direction?

~~A~~ The direction of Ann Street.

~~Q~~ And during this time did you see the other defendants?

~~A~~ Yes, sir.

Q What were they doing with their guns, if anything?

A Firing towards the same directions.

MR. HUNEVOL: Object and move to strike as to the other defendants.

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

Q How long were you back in that direction in which you were firing?

MR. FERGUSON: Object to the leading. (*Exemption No. —*)

A An hour and a half.

Q And during the time that you were back there, did any of the defendants say anything that you recall?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Only whenever we got ready to leave to go back to the church.

Q Now prior to that time during the time that you were back there, did you receive gunfire of any kind?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exemption No. —)

A Yes, sir.

~~Q From what area?~~

~~A From the area of Ann Street, 6th and Ann.~~

Q And what was said and by whom prior to the time you left to go back to the church?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exemption No. —)

A Ben Chavis told us to come on, for everybody to come on, and "Let's run back to the church."

Q And what, if anything, did you and the defendants you have described do at that time?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. —)

A As we were coming out from the back we were shooting as we were coming back.

~~Q How did you go back to the church?~~

~~A We went back to the church on 6th Street.~~

~~Q Show how you came out of the area and where you went.~~

~~A We came out of the area along up in here.~~

(Pointing) From behind up in here and then we came - instead of coming back through the path we run around up this way and came back to the church.

~~Q ^{We} Did you return to the church at that time?~~

~~A Yes, sir.~~

~~Q Who else returned to the church if you know?~~

~~A Ben Chavis and Marvin Patrick and the rest of them returned to the church.~~

Q All of the defendants you have described?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception thrown)

A No, sir. The only ones I saw back at the church was Chavis and Chili,

~~Q Who is Chili?~~

~~A Marvin Patrick.~~

Q The others weren't at the church at that time?

A No, sir.