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~~you then?~~ ↓

~~A~~ Lt. Turner, Capt Corbett; there were several other people there. I do not recall who they were.

Q ~~And you~~ went to the parsonage for the purpose of searching the parsonage just as you had searched the basement of the church. Is ~~that~~ correct?

~~A That is correct.~~

Q ~~No further questions.~~

MR. HUNEVOL: Request limiting instructions, your Honor, for Mrs. Shephard.

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

MR. HUNEVOL: Move to strike the entire testimony of Sarg. Hobbs.

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

MR. HUNEVOL: I have no questions.

MR. FERGUSON: We move to strike the testimony of this witness also.

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

MICHAEL SHERMAN MCNEW, called as a witness on behalf of

the State, being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:)

Q ~~State your name~~ ✓

~~A~~ Michael Sherman McNew. ✓

MR. FERGUSON: Object to the testimony of this witness.

MR. HUNEVOL: Object.

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

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

(Conference at the bench.)

I am
Q ~~You are~~ a member of the Wilmington Police Department,
~~Mr. McNew?~~

A Yes, sir; I am.

Q ~~How long~~ have you been a member of the Department,
~~please?~~

A Approximately two and a half years.

Q On February 8 and 9, 1971, which was a Monday and Tuesday, did you have occasion to be at Gregory Congregational Church in the 6 hundred block of Nun Street in Wilmington?

MR. BALLANCE: Objection.

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

A Yes, sir; I did.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What was your occasion for being there on the 8th

and 9th, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A I was assigned and stationed at the church.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Overruled. (Exception No. —)

Q Now during the 8th and 9th was there someone continually assigned at the church from Wilmington?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; there was.

MR. BALLANCE: Move to strike.

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

Q Was there someone there 24 hours a day?

MR. HUNEVOL: Objection.

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Could you repeat that?

Q 24 hours a day.

A Yes, sir.

Q On the 8th and 9th -

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

Q On the 8th and 9th of February, '71.

A Yes, sir.

Q MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Now on February 9 which was a Tuesday, you were assigned there at Gregory Congregational Church?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A yes, sir; I was.

Q On that day did you have occasion to go into the basement of the church?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I did.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Before you went in the basement how long had you been at the church on that day?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A I had been there approximately - I really do not recall.

Q You don't recall?

A No, sir.

MR. BALLANCE: Move to strike.

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

Q Did you take the place of another Wilmington police officer when you arrived there?

MR. BALLANCE: Object to the leading.

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

THE COURT: Overruled. Don't lead him.

A Yes, sir I did.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Do you recall who that was?

A No, sir; I do not.

MR. HUNEVOL: Motion to strike.

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

Q Were there any other persons there during this 24 hour assignment at the CHURCH?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir; there was.

MR. HUNEVOL: Move to strike.

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

Q Who?

MR. BALLANCE: Move to strike.

THE COURT: Overruled. (Exception No. —)

A The National Guard Troops.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And what was your assignment during the 8th and 9th when you were assigned there at the church?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A I was Liaison Officer between the Department and the National Guard.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Did you have any other responsibilities at that time?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; to make sure that nobody entered the grounds of the church or the parsonage.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And where were the National Guardsmen and yourself stationed during the time that you were there on the 8th and 9th of February, 1971?

MR. HUNEVOL: Objection.

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

A There were three troops underneath the basement of the church. The rest were out in front of the church and the parsonage.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q On the morning of or on February 9th, which was that Tuesday, 1971, when you went into the basement of the church, what was your occasion for going into the basement of the church at that time?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A I went in the church to look around and see what I could find underneath the church.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And while you were in the basement of the church did you find anything?

MR. BALLANCE: Object.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; my attention was called to a table which was sitting inside the door approximately half way toward the rear of the church which there was some wire sticking up between some boards laying on top of this table. Removed the board and found that the wires were connected to electrical blasting caps.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Had you seen electrical blasing caps before that time?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I had.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Was that through your duties in the military?

MR. BALLANCE: Objection to the leading.

THE COURT: Objection overruled. (Exception No. —) Don't lead him.

A Yes, sir; it was in the service.

MR. HUNEVOL: Move to strike.

MR. BALLANCE: Move to strike.

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

Q What experience did you have in the service; through what area with regard to blasing caps?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A I went to Ammunition and Explosive School.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Would you describe the wires and blasing caps connected to the wires that you have testified to?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; the electrical blasing caps - there is a metal portion which is approximately an inch to an inch and a half long which has two wires, insulated wires, running from this cap.

MR. HUNEVOL: Move to strike.

MR. BALLANCE: Move to strike.

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

Q And were these wires and blasting caps that you described loose or were they wrapped around something?

MR. BALLANCE: Object to the leading.

MR. HUNEVOL: Object to the leading.

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

A They were in really two different bunches, one bunch separated and another bunch that was wrapped around a core.

MR. HUNEVOL: Move to strike.

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

Q After finding the blasting caps and electric wire or wiring, what, if anything, did you do?

MR. HUNEVOL: Object.

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

A I looked to see if I might find the dynamite explosive that went with the blasting caps.

MR. BALLANCE: Motion to strike.

MR. HUNEVOL: Move to strike.

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

Q Did you contact anyone with regard to what you planned?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, I did.

Q Who did you contact?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A I contacted Headquarters by radio.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q When you went looking for explosives connected with blasing caps did you find any?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I did.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q What did you do?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

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

A. I found on the far south wall, which is the wall to the church closest to Nun Street, I found some dynamite laying on a piece of tin up behind one of the brick pillars.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q. The area where you found the dynamite, would you describe that area? How did you get to it?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

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

A. Yes, sir; it is approximately somewhere from three feet to three and a half to four foot high off the ground. It is dirt, ground for the floor. You have to bend over almost crawl to get to it. It is dark end of the church because there is no light that can get up there.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q. Did you have a flashlight with you at the time?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

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

A Yes, sir; I did.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q After finding the dynamite what, if anything, occurred?

MR. HUNEVOL: Object.

MR. BECTON: Object.

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

A In locating the dynamite, went back outside; and at this time the A T F Officers arrived along with Lt. Lewis from the Department.

MR. HUNEVOL: Move to strike.

MR. BECTON: Move to strike.

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

Q What, if anything, did you do when they arrived?

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

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

A I showed them where the dynamite blasting caps were.

MR. HUNEVOL: Object; move to strike.

MR. BECTON: Move to strike.

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

(State's Exhibits "83", "84", and "85" marked for identification.)

Q Officer McNew, I hand you what has been marked for identification as State's Exhibits number "83" and ask if you can identify that, please.

MR. HUNEVOL: Objection.

MR. BECTON: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; this is the table that was under the church where the blasting caps were found.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Is that photograph a fair and accurate representation of that table as you observed it on the 9th day of February, 1971?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; it is.

MR. BALLANCE: Move to strike.

THE COURT: Denied. (Exception No. —)

Q I hand you what has been marked for identification as State's Exhibit number "84" and ask if you can identify that, please.

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; these are the electrical blasting caps which I found on the table.

MR. BALLANCE: Motion to strike.

MR. HUNEVOL: Motion to strike.

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

Q Is that a fair and accurate - strike that. Is that photograph a fair and accurate representation of the blasting caps and the electrical wiring that you observed on the 9th day of February, 1971?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; it is.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q And I hand you what has been marked for identification as State's Exhibit number "85" and ask if you can identify that, please.

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I can.

Q What is it?

A This is a picture - photograph of the basement of the church located in the 6 hundred block of Nun Street.

MR. BALLANCE: Move to strike.

THE COURT: Denied. (Exception No. —)

MR. BALLANCE: Object to the leading.

THE COURT: Overruled. (Exception No. —)

Q What is depicted in that photograph?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A — Beg pardon?

~~Q What is depicted or shown in that photograph?~~

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

A In the very top of the photograph you can see the sticks of dynamite as they were laying on the tin.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Is that photograph a fair and accurate representation of the basement of the church and the dynamite as you observed it on February 9, 1971?

MR. BALLANCE: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; it is.

MR. BALLANCE: Move to strike.

MR. HUNEVOL: Move to strike.

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

SOL. STROUD: State move these photographs be admitted into evidence as State's Exhibits "83", "84" and "85."

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exception No. —)* Members of the jury, State's Exhibits number "83", "84", and "85" are offered by the State and received into evidence in evidence for the purpose of explaining and illustrating the testimony of the witness if you, the jury, find that they do illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence.

Q I am handing you State's Exhibit number "83". Can you point out to the jury, please, where you found the electrical wiring and blasting caps in relation to that table?

A Yes, sir; they were laying in this compartment here.
(Indicates to jury)

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exception No. —)

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Referring to State's Exhibit number "84", can you show on that photograph to the jury, please, the blasting caps?

MR. BALLANCE: Objection.

MR. HUENVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; these right here are blasting caps, electrical blasting caps here and here. (Pointing)

MR. HUNEVOL: Move to strike.

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

Q And referring you to State's Exhibit number "85", can you point out in that photograph where the dynamite is, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; I can.

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

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

SOL. STROUD: State has no further questions of

this witness, your Honor. Tender him for cross examination.

MR. FERGUSON: We move to strike the testimony of this witness.

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

MR. FERGUSON: Let us see Exhibit "83", "84" and "85", please.

(Solicitor hand Exhibits to Mr. Ferguson.)

CROSS EXAMINATION BY MR. FERGUSON:

Q Mr. McNew, in relation to the dynamite that you say you found, where was the blasting cap? Where were the blasting caps? How far from it?

A The blasting caps were about half way back from the door and the dynamite was all the way to the rear of the building.

Q *I did*
~~Did I understand you to say that the blasting Caps~~
~~were wired?~~

~~A Excuse me?~~

Q ~~Did I understand you to say that the blasting caps~~
~~were wired?~~

A ~~Yes, sir,~~ *T* the blasting caps have two wires coming out from each cap.

Q ~~Each cap had two wires coming out from it?~~

A ~~Yes, sir.~~

Q And did I further understand that one wire was wrapped and the other was loose?

A No, sir; I did not.

~~Q Neither one of them was wrapped?~~

~~A~~ I stated that there were two separate bunches of blasting caps. One set of them were wrapped around this cardboard core. The other bunch of them was just together.

Q Now were the blasting caps together? How many blasting caps did you find?

A I do not recall how many there were.

Q Well let me refer you to State's Exhibit "84", and ask you if you found some blasting caps other than the blasting caps that you say are fairly and accurately represented on that Exhibit.

A No, sir; this is it.

~~Q~~ That is all the blasting caps?

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

Q Now when you say some of the wiring was wrapped together would you tell me what you mean by that?

A Yes, sir; there was two bunches. This bunch here some of the wires wasn't connected to the core here. They were already unwrapped from the core. The were separate and the rest of the wires were wrapped around this core.

~~Q~~ ~~I see.~~ Well ^{I am} by the wiring that is not wrapped around the core ~~are you~~ referring to this wiring here?

~~A~~ Yes, sir, these wires coming off here which you can see the end of.

Q And the wiring that was attached to the roll is this wiring here?

~~A~~ ~~The wiring that attached to the blasting cap?~~

Q Yes, sir.

A No, sir; some of the wires were loose and some of them were wrapped around the core here.

Q Now what was this item ~~here~~ made out of the thing that the wires were wrapped around?

A Cardboard.

Q Now was it wrapped around it in a manner whereby you could unravel it by unrolling the cardboard roll?

A No, sir; it was wrapped simply around there to roll up the wire.

~~Q~~ And how ^{1 x 1} many sticks of dynamite ~~did you say you~~ found?

~~A~~ I didn't say.

~~Q~~ Well how many did you find?

A I do not recall the exact number.

Q Referring you again to State's Exhibit "85", now where on here did you say you found the dynamite?

A Right here is the dynamite right here.

~~Q Is that some kind of groove?~~

~~A This is a piece of tin.~~

~~Q A piece of tin that was laying up on this dirt mound area?~~

~~A Yes, sir.~~

~~Q Here?~~

~~A Yes, sir.~~

~~Q Does this Exhibit also illustrate where you found the caps?~~ *Does not*

~~A No, sir; It is not shown in this picture here.~~

~~Q Did you have to move the table to get to the blasting caps?~~ *not*

~~A No, sir; I did not have to move the table.~~

~~Q When was the first time that you went to the church?~~

~~A Pardon?~~

~~Q When was the first time that you went to the church?~~ *2012*

~~A The morning of February 8.~~

~~Q Had you ever been in the basement before then?~~ *not*

~~A No, sir, I have not.~~

~~Q And did you assist in searching the church on Monday, February 8?~~ *not*

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

~~Q Now you were aware, were you not, that a bomb threat had been made on Thursday, February 4, 1971?~~ *Does not made*

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

~~Q At any rate, you don't know how this dynamite and
blasting caps got under the church?~~

~~A No, sir, do not.~~

~~Q Don't know who placed it there or when?~~

~~A No, sir, that is correct.~~

MR. FERGUSON: I have no further questions.

MR. HUNEVOL: Request to strike all of the testimony, Your Honor.

MR. FERGUSON: We renew our motion to strike.

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

MR. HUNEVOL: Request limiting instructions as to Shephard, your Honor.

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

MR. HUNEVOL: No questions.

THE COURT: I think we'll take a recess for lunch. Members of the jury, we are going to take a recess until 2 o'clock. May I again caution you not to discuss these cases with anyone nor allow anyone to discuss them with you or in your presence. Do not discuss them among yourselves until you have sit right for your deliberation. I instruct you not to read any account of this trial if such should appear in the Press nor read nor listen to any fiew of an account of this

trial if such should appear on television; not listen to any account of this trial if such should be on radio. You go now, members of the jury, and come back at 2 o'clock.

(The jury retired from the courtroom.)

SOL. STROUD: Your Honor, may Sarg. Hobbs and Mr. McNew be excused for the remainder of the day until 9 o'clock in the morning?

THE COURT: Yes, sir; let them be excused. Let's take a recess until 2 o'clock.

(The Court recessed from 12:55 until 2:15 P M.)

SOL. STROUD: State will call Mr. Blittner.

P. H. BLITTNER, called as a witness on behalf of the State,

being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD:

~~Q~~ State your name, please, sir.

~~A~~ P. H. Blittern.

~~Q~~ What is your position or occupation, please?

~~A~~ *I am* Special Agent for Bureau of Alcohol, Tobacco and Firearms, U. S. Treasury Department.

~~Q~~ How long have you been with the Alcohol, Tobacco, Firearms Division of the Treasury Department?

~~A~~ 17 years.

~~Q~~ Did you have occasion to be in Wilmington, North

Carolina on assignment during February 8 and 9, 1971?

A Yes, sir; I did.

MR. BALLANCE: Objection.

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

Q Now on that occasion, more specifically on the day of the 9th of February which would have been on a Tuesday, did you have occasion to go to the Gregory Congregational Church located in the 6 hundred block of Nun Street in Wilmington?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir; I did.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied; objection is overruled. (*Exception No. —*)

MR. FERGUSON: We object also to the question (*Exception No. —*)

Q Who did you go to the church with?

MR. FERGUSON: Objection.

MR. HONEVOL: Objection.

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

A I went to the church with Lt. Lewis of the Wilmington Police Department.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What occurred once you arrived at the church, please?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A I went to the basement of the church and in the far back or the south end of the church I was shown a group of explosives.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Have you dealt with explosives or had you dealt with explosives before that time?

MR. BALLANCE: Objection.

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

A Yes, sir; I had.

Q Would you explain your familiarity and experience with explosives, please?

MR. FERGUSON: Objection.

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

A I spent about 25 years with explosives, both using and teaching. I am a graduate of the Explosive

Ordinance Disposal School, Huntsville L A, Redstone, Arizona.

Q Have you had any other special training in the area of explosives?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; at the O D School at Cherry Point, North Carolina. Explosive Ordinance Disposal.

Q Is that your primary responsibility with your Alcohol, Tobacco, Firearms Division of the Treasury Department?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A It is.

Q More specifically ^I have you had experience with dynamite?

A Yes, sir.

Q As an explosive?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q The special training that you have referred to and the experience that you have referred to have you had all of that in connection with the explosive dynamite also?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q Now would you describe what you observed when you got into the south end of the basement of Gregory Congregational Church, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Before I got into the south end I was shown the plastic blasting caps that had been picked up by one of our agents. There was two number 6 electric blasting caps, four number 8 electric blasting caps at the south end of the church. There were two 9 inch sticks of Atlas blasting powder. There were two 18 inch sticks of 45 percent Hercules dynamite that had been broke in half. All these were laying on a piece of tin.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Upon discovering the blasting powder and the dynamite as you have referred to, what, if anything, did you do?

MR. FERGUSON: Objection.

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

MR. HUENVOL: Objection.

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

A We had all the shortwave radios turned off in the area.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to lstrike.

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

Q What was that?

A Because of the hazardous blasting caps can be detonated by a short wave radio.

MR. FERGUSON: Move to strike.

MR. HUNEVOLL Move to strike.

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

Q What, if anything, with regard to the blasting caps did you do?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A The blasting caps were shunted - this means that the

two wires were wrapped together to keep them from absorbing any radio signals and detonating. We then removed the dynamite and the blasting agent on the metal that it was laying on, a piece of metal through the rear door and into one of our automobiles and we took them to the City dump and made one charge out of all of them and detonated one number 6 fire fuse cap and a piece of fire fuse

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Upon being detonated, what, if anything, occurred?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A They detonated.

Q They exploded?

A Yes, sir.

MR. FERGUSON: Move to strike.

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

Q Now this included the dynamite and blasting powder?

MR. HUNEVOL: Objection.

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A And the blasting caps.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Now when you observed the dynamite and blasting powder in the basement of the church on the tin, on the piece of metal that you have referred to is there anything unusual about it that you observed at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. —)

A The two sticks of 45 percent Hercules dynamite had been broken in half and the Nitroglycerin had started to exude from the dynamite; had started to crystallize and the dynamite go. And when the Nitroglycerin exudes from the dynamite it becomes extremely sensitive.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Now when you went into the basement area where the dynamite was pointed out to you, what was the condition as to light in that area?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A There was no lighting in the back area. It was very dark and we had to use flashlights and get down on our hands and knees to get into that area.

MR. FERGUSON: Move to strike.

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

(State's Exhibits "86", "87" and "88" marked for identification.)

Q Mr. Blittner, I hand you what has been received into evidence as State's Exhibit number "85" and ask if you can identify that, please, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q What is it?

A That is -

MR. FERGUSON: Objection.

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

A Of the basement of the Gregory Church and the dynamite and piece of tin are visible in the upper top of the photograph.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Denied. (Exception No. —)

Q Is that photograph a fair and accurate representation of the dynamite in the basement of the church as you found it on the 9th day of February, 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; it is.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Motion to strike.

THE COURT: Denied. (Exception No. —)

Q I hand you what has been marked for identification as State's Exhibit number "86" and ask if you can identify that, please.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; it is the pieces of dynamite and two sticks of blasting agent and the tin in the backend of the basement of Gregory Church.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Is that photograph a fair and accurate representation of the dynamite as you found it in the basement of Gregory Congregational Church on the 9th day of February of 1971?

MR. FERGUSON: Object.

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

A Yes, it is.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q I hand you what has been marked for identification as State's Exhibit number "87" and ask if you can identify that, please, sir.

A This is also a photograph of the two sticks of dynamite and the two sticks of blasting agent on the piece of tin in the basement of the Gregory Congregational Church.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Is that photograph a fair and accurate representation of the dynamite as you found it in the basement of Gregory Congregational Church on the 9th day of February, 1971?

A Yes, sir.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q I hand you what has been marked for identification as State's Exhibit number "88" and ask if you can identify that, please, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

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

A Yes, sir; it is the same piece of metal and the two sticks of dynamite and the two sticks of blasting agent.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Is that photograph a fair and accurate representation of the dynamite as you found it in the basement of Gregory Congregational Church on the 9th day of February of 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Move to strike.

MR. FERGUSON: Motion to strike.

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

SOL. STROUD: The State moves that these photographs be admitted into evidence as State's

Exhibit number "86", "87" and "88".

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

THE COURT: Members of the jury, the State's Exhibits "86", "87" and "88" 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 they do illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence.

Q I hand you what has been recieved into evidence as State's Exhibit number "86" and ask if you can identify the two gentlemen that are in that photograph.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir; this is Lt. Lewis and this is Special Agent James Lancaster.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

THE COURT: Motion denied. *(Exception No. 3)*

Q Using State's Exhibit number "87" can you identify in that photograph, please, the blasting powder and also the two sticks of dynamite that were broken to the jury?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

Q So the jury can see it?

A The two light colored sticks to either side are the blasting agent. The four darker colored are the two sticks of dynamite that had been broken in half and it shows the ends where they were broken the nitro-glycerin was exuding.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

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

Q I hand you what has been received in evidence as State's Exhibit number "84" and ask if you can identify that, please.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A This is the wiring on one of the - or approximately 4 or 5 of the electrical blasting caps.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Is that photograph a fair and accurate representation of the wire and blasting caps as you observed them

on the 9th day of February 1971?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, it is.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

THE COURT: MOTION DENIED. (Exception No. —)

Q Using State's Exhibit number "84" which you have described as blasting caps and wiring on the table?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A It is at the top center of the photograph.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

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

SOL. STROUD: Your Honor, may I pass Exhibits

"85", "86", "87" and "88" among the jury, please?

THE COURT: Yes, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

(Exhibits passed to the jury.)

SOL. STROUD: State has no further questions of

this witness, your Honor. Tender him for cross examination.

MR. FERGUSON: We move to strike the testimony of the witness.

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

MR. FERGUSON: We have no questions.

MR. HUNEVOL: Your Honor, ask for limiting instructions as to the defendant Snephard.

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

MR. HUNEVOL: Ask that the Court strike the entire testimony of Mr. Blittner.

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

MR. HUNEVOL: I have no questions.

SOL. STROUD: May this witness be excused, your Honor.

THE COURT: Yes, sir.

SOL. STROUD: State will call Lt. Turner to the stand, your Honor.

DAVID TURNER, witness on behalf of the State, recalled,

being already duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD):

I am
Q — Lt. David Turner of the Wilmington Police Department?

A — Yes, sir.

I am
Q — You are Lieutenant with the Records and Identification

Division of the Police Department?

A ~~Yes, sir.~~

Q Lt., on the 8th day of February of 1971, which was on a Monday you were part of the search team that went to Gregory Congregational Church. Is that correct?

A Yes, sir.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

THE COURT: Overruled. (Exception No. —)

Q And on that day you had occasion to go into the basement of the church. Is that correct?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q When you were in the basement of the church did you take photographs of items that were found there and general photograph of the basement?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

MR. HUNEVOL: Move to strike.

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

Q Lt., I hand you what has been received into evidence as State's Exhibit number "85" and ask if you can

identify that, please, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir; this is a photograph showing the back portion of the basement or the south end of the basement of the Gregory Congregational Church, 6 hundred block of Nun. It is showing the portion underneath the porch and steps. It shows the piece of galvanized metal with the dynamite that had been mentioned laying on it.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Who took the photograph, if you know?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A I did.

Q Who developed it?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A I did.

Q When did you take the photograph?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A. I took it on the morning of the 8 February, 1971.

Q. And when did you develop the photograph?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A. I developed the negative that afternoon. I made the print the morning of the 9th.

Q. Would you show that photograph to the jury, please?

MR. FERGUSON: Objection.

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

MR. HUNEVOL: Objection.

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

A. The dynamite is located in the top center up on the sand. (Showing to jury)

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

MR. FERGUSON: We move to strike his testimony.

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

MR. FERGUSON: No questions.

MR. HUNEVOL: Move to strike his entire testimony.

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

MR. HUNEVOL: Move for limiting instructions

as to Shephard.

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

MR. HUNEVOL: No questions.

SOL. STROUD: May this witness be excused?

THE COURT: Yes, sir.

SOL. STROUD: State will call Mr. Fred Pickler.

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

being duly sworn, testified as follows:

DIRECT EXAMINATION (BY SOL. STROUD)

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

A ~~W. F. Pickler.~~

Q ~~You are presently a member of the New Hanover County Sheriff's Department. Is that correct?~~

A ~~Yes, sir.~~

Q ~~How long have you been with the New Hanover County Sheriff's Department?~~

A ~~March of '73 will be two years.~~

Q ~~Now *I was not* in February of 1971 were you not with the New Hanover County Sheriff's Department?~~

A ~~No, sir.~~

Q ~~And during that month of that year what was your occupation?~~

A ~~During the month of February and back I was a free~~

lance photographer.

Q As part of your occupational responsibility did you have occasion to go to the vicinity of 7th and Ann Street on the 9th day of - Strike that. On the 11th day of February of 1971, which was a Thursday?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q What was your occasion for being there at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A At that time I went up there to make photographs of the funeral of Corbett, the youth that was to be buried that day or the funeral service to be held that day. This was at Jordan Funeral Home. The services were to start - I'd been requested by a photo agency to go to that area and make photos of anything that might be of interest to the agency that requested the photographs.

MR. FERGUSON: Motion to strike.

MR. HUNEVOL: Motion to strike.

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

Q While you were there did you have occasion to take photographs?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q While you were there did you have occasion to take photographs?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

(State's Exhibit "89" marked for identification.)

Q Deputy Pickler, I hand you what has been marked for identification as State's Exhibit number "89" and ask if you can identify that.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

~~A~~ Yes, sir.

~~Q~~ What is it?

A It's a photograph which I made on the date in question.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q What does that photograph portray?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A It shows four subjects clearly, a house in the background, a car in the background, two other people, three other people in the background appear to be female. The four people - correction - the five people that are prominently displayed in the picture are identifiable by the photograph. This photograph was made at the head of a procession which left Jordan Funeral Home at approximately noon on that Thursday. There was 3 or 4 hundred people in that procession. These people were out in the front. As I recall, there was a hearse and then the four people that were separated more or less from the crowd and then a couple of feet behind these people back in the crowd, I'd estimate between 3 and 4

hundred people were following and passing my position. This was - I believe the house stands at, I believe, 304 South 7th Street which is right beside Jordan Funeral Home.

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

Q Is that photograph a fair and accurate representation of the head of that funeral procession as you observed it on the 11th day of February of 1971?

A Yes, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

MR. FERGUSON: Move to strike.

MR. HUNEVOL: Move to strike.

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

SOL. STROUD: May it please the Court, the State moves this photograph be admitted into evidence as State's Exhibit number "89".

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Let me see you.

(Conference at the bench.)

SOL. STROUD: May I ask an additional question?

THE COURT: Yes, sir.

Q Referring you to the photograph again can you identify any of the people that are in that photograph?

A Yes, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

~~Q~~ Who?

A The defendant Ben Chavis who is seated here is appearing in the photograph as I am looking at the photograph. The second person from the righthand side of the photograph here.

THE COURT: Members of the jury, you will consider this testimony only as to the defendant Ben Chavis. You will not consider this testimony as evidence against any of the other defendants. *(Exception No. —)*

Q Now is there anyone else in the photograph that you can identify?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

~~Q Without showing it to me right now who does it identify?~~

~~A~~ There is a subject, Allen Hall, is the third one in the photograph from the right.

Q Would you point him out in the courtroom??

A Yes, sir; he is seated right here.

~~Q What is he wearing?~~

~~A~~ He is wearing a blue knit long coat, blue and white shirt, blue striped or checked trousers.

MR. STROUD: May it please the Court, the State now moves this photograph be admitted into evidence as State's Exhibit number "89".

MR. FERTUSON: Objection.

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

THE COURT: As I have previously told you, you will consider this testimony only as to the defendant Chavis, members of the jury. You will not consider this testimony as evidence against any of the other defendants. State's Exhibit "89" is offered by the State and received by the Court to illustrate and explain 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.