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Q Did you know James Earl Grant in February of 1971?

A I had occasion to meet him.

MR. FERGUSON: Objection.

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

~~Q Pardon?~~

~~A I had occasion to meet him.~~

Q Did you see him at Gregory Congregation Church or the parsonage?

~~A When?~~

~~Q During any of the days that you were there.~~

A I saw him once.

~~Q Was it at the parsonage or at the church?~~

~~A At the parsonage I saw him.~~

~~Q Upstairs?~~

~~A No, it wasn't upstairs,~~

~~Q Did you see him with a rifle?~~

~~A No, I didn't see him with a rifle.~~

~~Q In February of 1971 *I was not* were you a member of Gregory Congregational Church?~~

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

~~Q Had you ever been there before?~~

~~A Let's see. No, I can't say I have.~~

Q In February of 1971, did you know Roderick Kirby?

A Slightly. I knew him. He was in high school, too, also.

Q Did you see him over at the church while you were there?

A In February I never saw Kirby at the church.

Q How about George Kirby?

A He was there seldom.

~~Q You did see him there?~~

~~A O, yes, I saw him there.~~

Q Do you remember Mike's Grocery store building and the two houses next to it burning to the ground on the evening of Saturday February 6, 1971?

A I heard the latter part of your statement. What did you say about the two houses?

Q Do you recall now that on February 6, 1971, that Mike's Grocery store building and the two houses next door to it, just around the corner from the church were burned to the ground?

MR. FERGUSON: Objection to the form of the question.

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

~~A Were burnt to the ground?~~

~~Q Do you recall that having occurred on that Saturday night?~~

~~A On Saturday, February 6?~~

~~Q Yes,~~

~~A Yes.~~

Q Do you recall on that night that police officers and firemen who attempted to put out those fires were shot at by people on 6th and Nun?

MR. HUNEVOL: Objection.

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

A I don't recall that.

Q *I* Did ~~you~~ hear gunshots while ~~you were~~ *I was* at the church on that Saturday night?

A ~~That Saturday night. Let's see.~~ Before I came out of the church I did.

Q ~~When did you come out of the church? About what time was it?~~ *I came*

A ~~It was~~ something "til 10 maybe.

Q You heard some shots then?

A Yes, earlier.

Q Where did you go when you came out of the church about something to 10?

A Well the houses you were talking about were burning, and we helped the people move their furniture.

Q Don't you know the houses weren't even on fire at something to 10?

A Yes, they were. They had to be.

Q Don't you know the alarm didn't go into the Fire Department about Mike's Grocery store until something 'til 10?

MR. HUNEVOL: Objection. He said he had been out there something after 10. He helped people move their furniture. Move to strike. (Exception No. —)

~~Q Did you say something to 10?~~

A I said something to 10. I know we helped people move their furniture.

~~Q~~ ^{I not} Do you have any idea how that fire started?

~~A I don't have any idea, no.~~

Q How many shots did you hear over there, Mr. Wonce?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A I don't know.

~~Q~~ ^I When you went over there to help the people move the furniture out of their houses, ^I did you see police officers and firemen up there?

~~A Yes, I did.~~

~~Q~~ did you hear gunshots as you were going over there and during the time that you were there?

A I don't recall gunshots.

Q Do you recall seeing Allen Hall and defendant Chavis out there?

~~A Are you implying there together; or do you recall?~~

~~Q Do you recall seeing them out there?~~

A I recall this is where I spotted Allen Hall. I spotted him helping move furniture. Chavis was

helping move furniture also.

~~Q Did you see either one of them with weapons at that time?~~

~~A I don't recall.~~

~~MR. PERCUSON: I can't hear the Solicitor's questions.~~

~~THE COURT: Talk louder.~~

Q Did ~~you~~^{not} see either one of them with weapons at that time?

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

Q Did ~~you~~^{not} have a weapon with ~~you~~^{me,}

~~A No, I did not.~~

Q During that week that you were there did you hear gunshots on several different occasions?

A Several different occasions I hear a gunshot.

Q Did ~~you~~ know Steve Corbett in February of 1971?

~~A Yes, I did.~~

Q Did you see Steve Corbett at the church on that Saturday~~night~~^{night}?

~~A That Saturday night.~~

~~Q Saturday night?~~

~~A Yes, sir.~~

Q Did ~~you~~^{not} see him with a shotgun?

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

Q Did you see anyone with a weapon at the church Saturday night?

A ~~In the church? Around the church?~~

Q ~~In, around, about. Parsonage.~~

A I was in the church up to the time I told you; crossed to the parsonage back and forth. I don't recall seeing him with a gun, not at that time or while I was going back and forth.

Q So of all the people that were in the church -

A I just told you there wasn't that many.

Q I understand that, but of all the people that were there and of all the people that were at the parsonage you didn't see anybody with a gun?

A Saturday night, no. I don't recall seeing anybody with a gun. I just don't recall.

Q Do you recall Steve Corbett's leaving the church on Saturday night?

A ~~I recall that.~~

Q ~~Was he out there helping you move furniture?~~

A ~~No.~~

Q Where did you see Steve Corbett on that Saturday night when he left the church?

A Left the parsonage.

Q ~~And he didn't have a gun with him at that time?~~

A ~~He didn't have a gun with him.~~

Q When was that in relation to when you went out to help people move furniture out of their burning houses?

~~A Are you talking about time?~~

~~Q Yes.~~

A I would say, all I would say somewhere close from the time 'til the time I left to move furniture, and it wasn't too far apart. It wasn't too far apart. That is all I can say.

Q On the evening did - Saturday evening - did you hear anyone talking over the public announcement system at the church?

A It wasn't public announcing system in the church on Saturday, February 6.

~~Q When was the last time you had seen one there?~~

~~A The last time? Would be Friday, February 5.~~

~~Q Do you recall anyone talking at the church addressing a group of people at the church on Saturday night?~~

~~A No.~~

~~Q You do not?~~

~~A Not addressing a group of people.~~

Q What were you doing in the church Saturday night, Mr. Wonce?

A Staying there.

Q You were? What did you do specifically other than help people move furniture out of their burning houses?

A Stayed there.

Q Do you recall what you did inside the church and at the church?

A There wasn't nothing to do. There wasn't anything to do, not Saturday night there wasn't anything to do. I stayed.

Q ~~And~~ the only defendants ^I you saw at the church that Saturday night other than Connie Tyndall was the defendant Chavis?

A ~~Yes.~~

Q ~~Now, Mr. Wonce,~~ ^{I was} on Friday night ~~you were~~ at the church. ~~Is that correct?~~

A ~~Friday night?~~

Q ~~Yes.~~

A ~~Yes, I was there.~~

Q And were any of the defendants there at the church on Friday night?

A This is what I just can't remember. I just can't recall. They could have been. I just can't recall.

Q ~~You~~ don't recall whether or not any of the defendants were at the church Friday night?

A ~~No.~~

Q Did you see the defendant Chavis at the church Friday night?

MR. FERGUSON: Objection.

THE COURT: Overruled. (*Exception No. 7*)

A I don't recall.

Q Do you recall seeing any of the defendants at the church on Thursday night, Mr. Wonce?

A Thursday night. I think I do.

~~Q Who?~~

~~A Brother Wright. I mean Joseph Wright.~~

~~Q What did you say? Brother Wright?~~

A Do you know why I call him Brother?

Q No.

A Epps, I saw Epps there. Tyndall; Chavis and that is about it that I can recall.

Q Now, Mr. Wright, why is it that you -

MR. BALLANCE: Objection.

Q Excuse me. Mr. Wonce, why is it that you can recall that on Friday night the two of the defendants - I mean, on Saturday night that two of the defendants were there, yet on Friday night you can't recall whether any of them were there?

MR. FERGUSON: Objection.

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

A I don't recall if they were there. I just don't recall

On Saturday night I recall the two.

SOL. STROUD: State has no further questions of this witness.

MR. HUNEVOL: Your Honor, Mrs. Shephard will rest.

THE COURT: Any evidence for the other defendants?

MR. FERGUSON: Your Honor the defendants Vereen, Patrick, Moore, Tyndall, Epps, McKoy, Jacobs, Wright, Chavis will rest.

THE COURT: Any further evidence for the State?

SOL. STROUD: May we approach the bench?

THE COURT: Yes, sir.

(Conference at the bench.)

THE COURT: Members of the jury, we are going to take a recess until tomorrow morning at 9:30.

Let me again instruct 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 the case for your deliberation. The Court again instructs you not to read any account of these trials if such should appear in the Press nor view or listen to any account of this trial if such should appear on television nor listen to

account of this trial if such should appear on radio. Wehn you leave may I again remind you to go immediately to your destination. Do not linger in the hallways or on the courthouse grounds; and when you return in the morning come immediately to your juryroom and do not linger on the courthouse grounds or in the hallways. Come to your juryroom and remain there until we open court. You go, members of the jury, and come back at 9:30 tomorrow morning.

(The jury retires from the courtroom.)

THE COURT: Take a recess until 9:30 tomorrow morning.

(The Court recessed at 4:58 P M.)

October 11, 1972

9:45 A M.

MR. HUNEVOL: Before the jury comes in I want to approach the bench, your Honor.

(Conference at the bench.)

THE COURT: Call the jury in.

(The jury returns to the jurybox.)

MR. FERGUSON: We'd like to on behalf of the nine defendants we represent we object to any

rebuttal evidence.

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

SOL. STROUD: Your Honor, the State will call Mr. Eric Junius to the stand.

MR. HUNEVOL: Your Honor, at this time I would like to move for a voir dire.

ERIC JUNIUS, called as a witness on behalf of the State, in rebuttal, being duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD:

MR. HUNEVOL: I would like a ruling on my motion.

THE COURT: I have heard your motion and I will rule on it.

~~Q State your name.~~

~~A Eric Junius.~~

~~Q What is your nickname?~~

~~A Tyrone.~~

~~Q Do you have any other nicknames?~~

~~A They call me Motor Mouse.~~

~~Q How old are you, Eric?~~

~~A 13.~~

~~Q And who do you live with, Eric?~~

~~A My Grandmother.~~

~~Q In Wilmington?~~

~~A Yes.~~

I am
Q ~~Are you a student?~~
A ~~Student what?~~
Q ~~Do you go to school?~~ *at*
A ~~Umhuh.~~
Q ~~Where?~~
A ~~Tilston.~~ *Tilston.*
Q ~~What grade are you in, Eric?~~
A ~~I am in the~~ *6th grade.*
Q Now, Eric, on -

THE COURT: Just a minute. Members of the jury, would you retire to your room?

(The jury retired to the juryroom.)

(The following transpired in the absence of the jury.)

DIRECT EXAMINATION BY SOL. STROUD:

THE COURT: This is voir dire.

SOL. STROUD: As to his competency as a witness?

THE COURT: Yes, sir.

Q Eric, you were sworn on a Bible there to tell the truth. Do you understand that that means?

A Yes.

Q And if you testify here today *I am* are you going to tell the truth?

A Yes.

Q Do you understand what it means to tell the truth?

A Yes.

Q And you say you are in the 6th grade at Tilston?

A Yes.

Q And you are 13 years old?

A (Shakes head yes.)

Q State your answer, Eric. You are 13?

A Yes.

Q And you live with your ^{my} Grandmother in Wilmington.

Is that right?

A Yes, sir.

Q What kind of grades do you make in school, Eric?

A ^{I made} D's and C's and B's.

Q Who is your teacher?

A Mrs. Brown.

Q This year?

A Yes, sir.

Q Do you go to church, Eric?

A Once in a while.

Q Where do you go?

A ^{I go to} Mt. Calvary.

Q Who do you go with?

A My Grandmama.

Q Were you at Gregory Congregational Church on Saturday in February, 1971?

~~A Yes, sir.~~

~~Q 1971?~~

~~A Yes, sir.~~

~~Q And did you see -~~

THE COURT: I'll ask you to examine him on the voir dire as to competency.

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

THE COURT: Do you gentlemen wish to examine?
Mr. Hunevol, I believe you made the motion on the voir dire as to competency. I will hear you.

CROSS EXAMINATION BY MR. HUNEVOL:

~~Q Eric, what is your birthday?~~

~~A July 28.~~

~~Q July 28?~~

~~A Yes, sir.~~

~~Q So you just turned 13. Is that correct?~~

~~A yes, sir.~~

Q Eric, what subjects do you take in school?

A What do you mean?

Q What courses are you taking in school now?

A I don't know what you are talking about.

I got
Q ~~What subjects did you get D's on?~~

~~A~~ ~~Or~~ My spelling.

I
Q ~~What other subjects do you take?~~

~~A~~ Math, Reading.

I got a B
Q ~~In Math, what did you get in Math?~~

~~A~~ B.

I got a C
Q ~~What did you get in Reading?~~

~~A~~ C.

Q ~~What other subjects do you take?~~

I took
A English and Health and Social Studies.

I got a D
Q ~~What mark did you get in English?~~

~~A~~ D.

Q ~~What mark did you get in English?~~

~~A~~ D.

I got a C
Q ~~What did you get in Social Studies?~~

~~A~~ C.

I ~~Q~~ *not* Did you take any other courses?

~~A~~ No, sir.

The *I went*
Q ~~When was the last time you did go to church with~~
~~my~~ ~~your grandmother?~~

~~A~~ About two Sundays - No, about 3 sundays ago.

Q In an average month how many times do you go to church?

A About 3.

Q ~~About 3 times a month?~~

~~A~~ Yes, sir.

I am under
Q ~~Are you under a doctor's care, for any reason?~~

A ~~Yes, sir.~~

Q ~~What is that reason?~~

A ~~My mother had died.~~

Q ~~Your mother had died?~~

A ~~Yes, sir, and my daddy ain't able.~~

Q ~~Is the doctor treating you for anything?~~

A ~~Like what?~~

Q ~~How many times a month do you go to visit a doctor?~~

A ~~Once a month.~~

Q ~~Which doctor do you go to see?~~

A ~~One on 17th Street. I don't know his name.~~

Q ~~Do you know why you are going to the doctor's?~~

A ~~No, sir.~~

Q ~~What does the doctor do when you get there? Does he
just talk to you?~~

A ~~No, sir.~~

Q ~~Are you taking any prescriptive medicines?~~

A ~~No, sir.~~

Q ~~Is the doctor a psychiatrist?~~

A ~~I don't know.~~

Q ~~Have you ever heard the word "psychiatrist" used
before?~~

A ~~Yes, sir.~~

Q Do you know what a psychiatrist is?

A ~~I know.~~

Q Do you think that is the type doctor you are seeing?

A I don't know.

Q How long ago did your mother die?

A I ain't ever seen my mother. I was little. About 2 months old.

Q ~~How many people are there in your family?~~

A ~~I got 4 sisters and 3 more brothers.~~

Q Has your grandmother reared all these children?

A Yes, sir; not now though.

Q Do you watch a lot of television?

A ~~Yes, sir.~~

Q What are your favorite programs on television?

A Most of them are Movie of the Week on Tuesday.

Q Do you ever watch a lot of detective movies?

A ~~Yes, sir.~~

Q Do you watch Ironsides? Do you ever watch that, the guy in the wheelchair?

A ~~Yes, sir.~~

Q Do you watch the Rookies?

A ~~Yes, sir.~~

Q Do you watch Dragnet, Jack Webb?

A Once in awhile.

Q Are detective movies your favorite movies, your favorite programs?

A No, sir.

Q What is your favorite programs on television?

A I don't know.

Q ~~Have you ever~~ told any lies before?

A ~~Yes, sir.~~

Q Who do you usually tell them to? Do you tell your grandmother any stories?

A Yes.

Q What kind of stories do you usually tell her?

A I don't know. I done forgot.

Q ~~Do you ever~~ tell any lies to ^{not} your teachers?

A ~~No, not as I know of.~~

Q Who are some of the other people you have told storées to, if you recall?

A Peoples in stores.

Q People in school?

A Un huh, like I go steal something.

Q ~~So you~~ tell people that catch ^{me} you that you didn't do it?

A ~~Yes.~~

Q Can you think of any other people that you tell these stories to?

A My friends.

Q Have you told ^{my} your friends a lot of lies over ^{my} your lifetime?

A Unhuh.

Q You have? Did you tell a lot of your friends a lot of stories a lot of lies about your involvement over at the church?

A No, they knew.

Q ~~You have~~ never told any lies about that?

A ~~No.~~

Q When you go to the doctor, ^{he} ~~Eric~~ ^{not} does he give you any injections?

A ~~No.~~

Q Can you recall what he talks to you about?

A No. He don't tell me. He tells my Grandmama.

Q Eric, when was the first time you were contacted by the Solicitor about this case?

SOL. STROUD: I don't think that is competent on voir dire, your Honor.

THE COURT: No, this is on voir dire, Mr. Hunevol.

Q ~~Eric~~ have you ~~ever~~ been to training school?

A Yes.

Q ~~How many~~ times have you been to training school? ~~once.~~

A One.

Q ~~When was that, Eric?~~

A I went to training school June 28!

~~Q~~ ~~Of this year?~~

~~A~~ ~~No, last year,~~

~~Q~~ ~~1971?~~

~~A~~ ~~Yes, sir.~~

~~Q~~ Is that the first time you had ever been to training school?

~~A~~ ~~Yes, sir.~~

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

~~A~~ ~~11 months.~~

~~Q~~ Why did they put you in training school, Eric?

~~A~~ ~~Armed robbery.~~

~~Q~~ When you committed this armed robbery, did you have a loaded .38?

~~A~~ ~~A what?~~

~~Q~~ ~~A loaded gun?~~

~~A~~ ~~No.~~

~~Q~~ Did you hold up a gas station?

~~A~~ ~~No.~~

~~Q~~ What did you hold up, Eric?

~~A~~ Paper man.

~~Q~~ Did you use a knife?

~~A~~ ~~Yes.~~

~~Q~~ When did you hold up that paper man with a knife?

~~A~~ It was on a Sunday.

not
Q Can you remember the date?

A ~~No.~~

Q Was it back around February of 1971?

A ~~Yes, sir.~~

Q Was it on February 6, 1971?

A I don't know.

Q Did you hold up this man on February 5, 1971?

A I don't know.

I am
Q ~~But you are pretty sure you held up someone in~~
February of 1971?

A ~~Yes, sir.~~

Q How did they catch you, Eric?

A Girl told on me.

I wasn't
Q ~~Were you angry with that girl for telling on you?~~ *me.*

A ~~No.~~

Q (When did the police first come to see you?) *came me.*

A I done forgot.

not
Q Do you remember which police officer came to talk to you? *me.*

A ~~No.~~

It
Q Was it a police officer that came to talk to you? *me.*

A ~~Yes.~~

not
Q Was it a detective?

A ~~No.~~

Q Was ~~it~~ a uniformed officer?

A ~~Yes, sir.~~

Q When he came to talk to you did he accuse you of the crime?

A No.

~~Q What did he say to you?~~

~~A~~ He just brought the paper to me to be at court that Tuesday.

Q Did you tell him what you did?

A ~~What? in court?~~

~~Q No, when he brought the paper.~~

A ~~No, I didn't tell him. He didn't ask me nothing.~~

~~Q You didn't tell him anything?~~

A ~~He ain't asked me nothing.~~

Q Did you deny doing it?

A ~~mmh?~~

~~Q Did you deny doing it?~~

A ~~No.~~

Q Did you admit doing it while ^{I was} you were in court?

A ~~Yes.~~

~~Q Have you been in any trouble since - strike that.~~

~~When did you ^{last} get out of training school?~~

A May 31, 1972.

Q Have you been in any trouble since May?

A ~~No, sir.~~

Q Are there any charges pending against you right now?

A Not but this right here.

Q Are there any charges pending against you here?

A What you mean?

Q You think that some is going to charge you with a crime out of this, don't you?

A No.

Q Has someone told you you are not going to be charged with a crime?

A No, I know I didn't do nothing.

MR. HUNEVOL: I have finished, your Honor.

CROSS EXAMINATION BY MR. FERGUSON:

Q Eric, do you ever swear on the Bible?

A No.

Q You never have?

A Yes, I did.

Q When you told your grandmother some lies before, have you ever told her that you swear on the Bible what you say was true when you tell her a lie?

A No.

Q Did you ever tell her you cross your heart and hope to die when you were telling her a lie?

A No.

Q Do you ever say "I swear before God it is true" when you were telling a lie?

A No.

Q What did you tell her when you told a lie? Did you ever change and tell her you were telling her a lie?

A No.

Q You never did change and tell her you were telling her a lie?

A I ain't never caught her in a lie.

Q I am talking about when you told her a lie.

A She told me I was lying. I didn't tell her anything else.

Q You have done that several times?

A Yes.

Q Each time ^{I was} you were doing it, was it because ^{I was} you were trying to keep ^{my} yourself out of trouble?

A Yes.

Q And when you told some lies to the people in the store, was it because ^{I was} you were trying to keep ^{my} yourself out of trouble?

A Yes.

Q Do you feel like when you get in trouble that it is sometimes better to tell a lie to keep from getting ^{my} yourself in trouble?

A Yes.

I said
~~Q~~ Now you say one of your teachers is Mrs. Brown?

~~A~~ Yes.

Q Is that Detective Brown's wife?

A I don't think so; no.

Q You don't think so? Do you know Det. Brown?

A Yes.

Q How long have you known him?

A The last time he took us in court.

~~Q~~ He has taken *me* you in court several times?

~~A~~ Yes, sir.

I have not
~~Q~~ You told him a lie before, too, haven't you?

~~A~~ No.

Q You are scared of him sometimes when he takes you into court?

A Huh?

Q You were scared of him some of those times he took you into court, weren't you?

A Scared of who?

Q Mr. Brown.

A No.

MR. FERGUSON: I have no further questions.

THE COURT: Anything further from the State?

REDIRECT EXAMINATION BY SOL. STROUD:

~~Q~~ ~~Eric, do you play sports?~~

~~A~~ Yes.

~~Q~~ ~~What do you play?~~

~~A~~ Football.

~~Q~~ ~~Anything else?~~

~~A~~ And basketball. Sometimes I play baseball.

~~Q~~ Do you play on an organized football team now?

~~A~~ Yes, sir.

~~Q~~ Do you feel like you are in trouble now, Eric?

~~A~~ No, sir.

~~Q~~ Have you ever told a story in court that wasn't true?

~~A~~ No.

SOL. STROUD: I have no further questions.

THE COURT Anything further for the State on the voir dire?

SOL. STROUD: No, sir.

THE COURT: Do you gentlemen wish to offer any evidence on voir dire, speaking to all defendants.

MR. FERGUSON: Let me ask the witness one more question.

RECROSS EXAMINATION BY MR. FERGUSON:

~~Q~~ Are you seeing the doctor because of the fact that you have been in and out of a lot of trouble?

~~A~~ I think so.

~~Q~~ ^{me I} Somebody told ~~you~~ you needed to see a doctor to help get ^{your} yourself straightened out?

~~A~~ Yes, sir.

~~Q~~ How long have you been seeing him?

~~A~~ Ever since I came out of training school.

~~Q~~ Ever since you came out of training school?

~~A~~ Yes, sir.

Q And is it because some of the people think there is something wrong with your mind that you need to get straightened out?

SOL. STROUD: Object to what some of the people think.

THE COURT: Sustained as to what people think. *(Objection the)*

Q Counsellors and people you deal with, have they told you there might be something wrong the doctor might be able to help you with?

A Didn't say anything was wrong with me.

Q Why do you think you are seeing the doctor?

A I don't know.

MR. FERGUSON: I am finished.

THE COURT: Do the defendants wish to offer any evidence on the voir dire?

MR. FERGUSON: No.

MR. HUNEVOL: No.

THE COURT: The Court finds as a fact that Eric Junious is 13 years of age, in the 6th grade, lives with his grandmother; that his parents are deceased; that he is intelligent, knows the difference between truth and falsehood; that he understands the obligation of an oath -

EXAMINATION BY THE COURT:

Q Eric, let me ask you. Do you know what an oath means?

A A what?

Q Do you know what an oath means?

A No.

Q When you are sworn to tell the truth while ago, did you know that meant that you are to tell the truth?

A (No response)

Q Do you know what happens to you or what would happen to you if you do not tell the truth?

A Yes.

~~Q What?~~

~~A Might end up going somewhere you don't want to go.~~

~~Q What did you say?~~

~~A Might end up going somewhere you don't want to go.~~

Q Well then you know taking an oath means for you to

tell the truth, do you not?

A Yes.

THE COURT: Back to the findings of fact.

That the witness knows what an oath means; that

he knows that an oath means to tell the truth.
as a fact

The Court finds/that the witness is a competent witness. Let the jury come back.

(The jury returned to the jurybox.)

DIRECT EXAMINATION BY SOL. STROUD Continues:

Q Erick, are you familiar with the neighborhood of
7th and Nun and 7th and Ann Street in Wilmington?
Do you know that neighborhood?

A No.

Q Do you ever go over there?

MR. HUNEVOL: Objection, your Honor. He has
answered that question, said he didn't know.

THE COURT: Nor I will hear your objection and
pass on the objection. Overruled. *(Exception No. 1)*

Q Do you ever go over there?

A Yes,

THE COURT: (To witness) Take your hand down,
son.

Q Eric, I hand you what has been admitted into evidence

as State's Exhibit number "6" and ask if you can tell me what that is, please.

A That is the church and the preacher's house, and this is the -

Q Is that Gregory Church?

A Yes, sir.

Q Would you show that to the jury, please?

A Who is that?

Q These people right here. You just sit there and show it to them. Now, Eric, did you go to the church in February of 1971?

A Went in there Wednesday.

Q Do you remember being there that Saturday?

A Yes, sir.

Q Were there other people at the church when you got there?

A Yes, sir.

Q Just a few people or a lot of people?

A At was a lot of people.

Q (Solicitor walks over beside defendant Benjamin Chavis and points to him.) Eric, did you see this man?

MR. FERGUSON: Your Honor, we object to this.

THE COURT: Members of the jury, would you retire

to your room, please?

(The jury retires to the juryroom.)

THE COURT: I'll hear you on the voir dire as to the identification.

MR. FERGUSON: As for the identification we would like to have the defendant leave the courtroom and voir dire this witness as to what he knows. This amounts to lineup.

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

MR. HUNEVOL: I make the same motion.

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

MR. FERGUSON: We object to the Solicitor walking over to the defendant and pointing him out to the witness. *(Exception No. —)*

MR. HUNEVOL: I make request for a recess to have time to go to Wilmington and bring his grandmother up here.

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

DIRECT EXAMINATION BY SOL. STROUD:

Q Would you point out here in the courtroom any people that you saw in the church, please?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

Q On that Saturday night when you first got there?
Would you point out here in the courtroom any people
that you saw at the church on that Saturday night
when you got there?

MR. BALLANCE: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir.

~~Q Point them out, please.~~

~~A (Witness stands on the witness stand and points.)~~

Him over there; Chili; Willie Earl. I didn't see
him.

Q Who is that?

A Wearing the dungaree jacket, no; Joe Wright; Ben
Chavis; I see Bun when I first went there. When I
came out and went back in I ain't seen them no more.
I seen the boy over there beside Bun.

Q What is he wearing, the one that you are talking
about?

A A black jacket; and Wayne Moore.

Q Did you see any other people over there that were
over at the church Saturday night?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A And that lady over there with the glasses on.

MR. HUNEVOL: Objection; move to strike.

THE COURT: Overruled; motion to strike denied. *(Exception)*

MR. FERGUSON: If your Honor please, we would like for the record to reflect the time these persons were pointed out they were all seated around counsel table and the only persons present at the counsel table in addition to the defendants are the lawyers in the case.

MR. HUNEVOL: I would like to reflect for the record that when the question was originally asked, your Honor, the witness took time, looked at all of the defendants, started at the right or the defense table, started to name off the defendants, starting with Chili, Vereen, went around the next person after Vereen is my client, Ann Shephard, She is at least twice the size of anyone here. She is a white female. All the other defendants are black. The witness continued identifying people to the left of him, took the stand and resumed seating and then the Solicitor asked him was there anyone else after he had commented on every single person, every single defendant at the table with the exception of Shephard; and at that time after another

leading question by the State of North Carolina he pointed to Ann Shephard as the only person he didn't comment on.

SOL. STROUD: I'd like to have it shown in the record that the witness when pointing out the people in the courtroom pointed out Connie Tyn-dal, Marvin Patrick, Willie Earl Vereen, Ann Shephard, Joe Wright, Ben Chavis, James McKoy, Jerry Jacobs and Wayne Moore.

Q Eric, did you know Wayne Moore before February of 1971?

A Yes, sir.

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. 7)

Q Where did you know him from?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A When I used to go to the Community Center and play baseball he used to be there all the time.

Q Did you know his name before February of 1971 when you were at the church?

MR. FERGUSON: We Object.

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

A Yes, sir.

~~Q~~ You did?

~~A~~ Yes, sir.

Q Did you know Jerry Jacobs, the young man seated beside Wayne Moore before February of 1971?

MR. FERGUSON: Object.

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

A No, sir.

~~Q~~ Had you ever seen him before?

~~A~~ Yes, sir.

Q Where had you seen him?

MR. BALLANCE: Objection.

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

A I believe it was on Castle Street.

MR. BALLANCE: Move to strike.

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

SOL. STROUD: That would be the defendant Jerry Jacobs he was just talking about, your Honor.

Q The next young man here, James McKoy, the one you called Bun, did you know him before February of 1971?

A Yes, sir.

~~Q~~ You knew him as Bun?

~~A~~ Yes, sir.

Q Where did you know him?

MR. BALLANCE: Objection.

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

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

THE COURT: Objection overruled. (Exception No. 2)

Q Where did you know him from?

A Well the people who live next door from us, you know, he'd be around to their house at night: Mr. Jones.

Q He visits the people who live next door to you?

A Yes, sir.

Q Was this before February of 1971?

A Yes, sir.

Q Now coming forward the one you identified as Ben Chavis, had you seen him before February, 1971?

A No, sir.

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. 3)

Q You saw him at the church the first time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. 4)

A Yes, sir.

Q And did you learn his name at that time?

A Yes, sir.

Q Now the next young man seated next to the defendant

Chavis, the one you identified as Joe Wright, had you seen him before February of 1971?

MR. FERGUSON: Object.

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

A Yes, sir.

Q Where had you seen him?

MR. FERGUSON: Object.

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

A At his cousin's. His cousin used to go with my sister, and I used to see him on Red Cross Street.

Q Did you know his name before February of 1971?

~~A Yes, sir.~~

Q Next to him you say you didn't see that young man at the church Saturday night. Is that right?

A Yes, sir.

Q Coming up to the white woman that you identified with the glasses, had you seen her before you saw her at the church in February of 1971?

A No, sir.

Q And are you sure that it was she that you saw at the church?

MR. HUNEVOL: Objection, your Honor.

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

A Yes, sir.

MR. HUNEVOL: Move to strike.

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

Q Now going over there next to her is Willie Earl Vereen. Now had you seen him before February 1971 when you saw him at the church?

MR. FERGUSON: Object.

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

A Yes, sir.

~~Q~~ You had?

A Yes, sir.

Q Do you recall where you had seen him before?

MR. FERGUSON: Object.

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

A No, sir; but I know I had seen him before.

~~Q~~ ^{not} Did you know his name?

A ~~No, sir.~~

Q Are you sure that he was at the church on that Saturday night?

MR. FERGUSON: Object.

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

Q That you are testifying about?

A Yes, sir.

Q Now next to him is Marvin Patrick, the one you call Chili. Had you seen him before February 1971?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q ~~You had?~~

A ~~Yes, sir.~~

Q Where had you seen him before?

MR. FERGUSON: Object.

THE COURT: Overruled. (Exception No. —)

A I believe it was on Castle Street.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q Did you know his name Chili before you saw him at the church?

A Yes, sir.

Q Seated next to him is Connie Tyndall. Had you seen Connie Tyndall before you saw him at the church in February of 1971?

A No, sir.

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

Q Are you sure that you saw him at the church in February of 1971 on that Saturday night?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q Now all of the ones that you have pointed out here, are you positive in your mind, sure in your mind that you saw all of them at the church on that Saturday night?

MR. BALLANCE: Object.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

MR. HUNEVOL: Object; move to strike. (Exception No. —)

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

SOL. STROUD: I have no further questions on voir dire.

THE COURT: Do you wish to examine this witness on voir dire?

MR. FERGUSON: Yes, sir.

CROSS EXAMINATION BY MR. FERGUSON:

Q Eric, is there anyone else in the courtroom who was in the church on Saturday night?

A ~~Was there what?~~

Q ~~Is there anyone else in the courtroom whom you saw on Saturday night?~~

A I don't see nobody.

Q Now how many different nights did you go to the

church?

A Went there Wednesday.

~~Q You went there Wednesday night?~~

~~A Yes.~~

~~Q Do you know everybody you saw there on Wednesday night?~~

~~A Do I know everybody?~~

~~Q Do you remember everybody you saw on Wednesday night?~~

~~A No, sir.~~

Q Do you remember what everybody was doing on Wednesday night?

SOL. STROUD: Objection.

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

SOL. STROUD: I don't see how that is relevant on voir dire.

MR. FERGUSON: I think it is relevant because of the suggestive circumstances under which the voir dire is made.

SOL. JOHNSON: We object.

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

Q How many people did you see there on Wednesday night?

SOL. JOHNSON: Object.

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

A Wednesday?

SOL. JOHNSON: (to witness) You don't have to

answer it.

Q Do you remember how many people you saw there on Thursday night?

SOL. JOHNSON: Object.

THE COURT: Overruled. Did he say he was there from Wednesday night 'til Saturday night?

SOL. JOHNSON: Yes, sir.

THE COURT: Objection overruled. Go ahead.

A Yes.

~~Q How many people were there on Thursday?~~

~~A There was a lot of people there.~~

Q When you say a lot, how many do you mean when you say a lot?

A Enough.

~~Q Enough for what?~~

~~A There was a crowd.~~

~~Q Huh?~~

~~A A crowd.~~

Q 5 or 6 hundred people?

A No, not that many.

Q 2 or 3 hundred?

A No.

Q A hundred?

A No.

Q Well how many do you think?

SOL. JOHNSON: Objection.

A I don't know.

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

Q Do you remember how many you saw at the church on Thursday night?

SOL. STROUD: Object.

THE COURT: Overruled.

A No.

Q Do you remember what everybody did on Thursday night?

SOL. STROUD: Object.

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

A Yes, I don't know what everybody did, but I know what was going on.

SOL. STROUD: May he be instructed?

THE COURT: Son, when I sustain the objection, you don't have to answer the question.

Q Do you know how many people were there on Friday night?

~~A Friday?~~

~~Q Yes.~~

A I know we were going home Friday.

Q I am asking you if you know how many people were at the church.

A Around about 50 something; about like that; maybe 40.

Q Do you remember everybody you saw there Friday night?

SOL. STROUD: Object.

THE COURT: Overruled.

A Yes, sir.

Q ~~Do you~~ remember everybody you saw at the church on Friday?

A ~~Not everybody.~~

Q (How many people were at the church on Saturday?)

A I don't know. I don't know how many was there, but there was some there.

Q Was there as many as were there on Friday?

A Just about. The ones who stayed there.

Q You never did go home from Wednesday until Saturday?

A Not until Sunday morning.

Q You went on Sunday morning?

A No, that Sunday afternoon.

Q And all the rest of the time you stayed there at the church?

A Yes.

Q When did you first talk to any police officer about being at the church?

A Huh?

Q When did you first talk to a police officer about being at the church?

A I don't know.

~~Q~~ Was it within the last two days?

~~A~~ Yes.

Q First time you ever talked with one?

A No.

Q Well how long ago was it when you first talked to a police officer?

A I told you I don't know.

~~Q~~ You don't have any idea?

~~A~~ No.

leave question
~~Q~~ Was it before you went to training school?

A No.

SOL. STROUD: Objection.

THE COURT: Objection sustained; he said he didn't know.

Q Who was the first police officer you talked to?

~~A~~ Who was the first one I talked to?

~~Q~~ Yes, about being at the church.

A Mr. Brown.

~~Q~~ Was that after you got out of training school?

~~A~~ No.

I was
~~Q~~ Was it while you were in training school?

~~A~~ Yes.

I was
~~Q~~ And where were you when you talked to him?

~~A~~ In training school.

~~Q~~ ~~I mean where was the training school~~ *was in*

~~A~~ In Rocky Mount.

~~Q~~ *Did not* Did you tell him then everybody you saw at the church?

~~A~~ No.

~~Q~~ ~~Did he ask you everybody you saw at the church?~~

~~A~~ He showed me a lot of pictures.

~~Q~~ ~~Showed you a lot of pictures?~~

~~A~~ Yes.

Q Who was on these pictures?

A Some people who was at the church and some more people.

Q Were all of these persons you pointed out today on those pictures?

A There was these and some other people, too; some people I had never seen.

Q I am just asking you now if all of these people that you pointed out today were on those pictures?

A All except that boy. (Pointing)

Q Everybody except Reginald Epps, the boy seated here with the blue denim jacket and rust colored cordery pants? Everybody except him?

A Yes.

MR. FERGUSON: Let the record show that is Reginald Epps.

Q ~~Did Mr. Brown~~ ^{did not} tell you ^{me} what these pictures were ~~you were~~ ^{I was} looking at?

A No, I knew what they were.

Q ~~How did you know?~~

A I seen them at the church.

Q Were these pictures taken at the church?

A I don't know.

Q ~~He~~ ^{me} Did he tell you why you looked at the pictures, why he wanted you ^{me} to look at the pictures?

A Yes. He told me to pick out the ones that I seen at the church.

Q Now do you remember how many pictures altogether Mr. Brown showed you on that occasion?

A A lot of them. Some people I had never seen before.

Q Well was it 15 pictures?

A No, I told you there was a lot of of them.

Q ~~I am~~ Are you saying there was more than 15?

A Yes.

Q 20?

A I don't know. There was a lot. I didn't count them.

Q Out of those pictures how many people did you pick out as being at the church?

A I don't know. I just picked them out.

Q ~~You~~ ^I don't know how many people you picked out?

A No.

Q ~~Was anybody~~ ^{Some else was} there with you other than Mr. Brown ^{me}

Q When ^{you} picked these pictures out?

A Yes.

Q Who else was there?

A Mr. Stroud.

Q The Solicitor, Mr. Stroud?

A Yes.

Q Was anybody else there?

A Yes.

Q Who else was there?

A Mr. Johnson.

Q Dale Johnson *was there*.

A Yes.

Q Was anybody else there?

A Detective - I mean over there. (Pointing)

Q Detective Fredlaw was there?

A Yes.

Q Was ^{No} anyone else ^{was} present?

A No.

Q Did you show the pictures to anybody there at the training school other than - ?

A Huh?

Q Did they show the pictures to anybody at the training school other than you?

A Nobody but me.

Q Was Allen Hall there?

A Yes.

SOL. STROUD: Your Honor, - well, I withdraw my objection. He just said notbody else was there.

Q I am talking about when you looked at the pictures, was Allen Hall there?

A Yes.

Q Was Jerome Mitchell there?

~~A Who is Jerome Mitchell?~~

~~Q You don't know Jerome Mitchell?~~

~~A No, I just know them by the pictures and the ones I know. I just know them.~~

Q Was there another man there with Allen Hall when you looked at the pictures?

A I ain't seen no white man.

Q Another black man.

~~A When?~~

~~Q When you looked at the pictures.~~

A No.

~~Q Are you related to Allen Hall?~~

~~A What?~~

~~Q Are you related to Allen Hall?~~

A What you mean related?