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church on Friday night, and the only thing he said about Marvin Patrick was that he got shot on Friday night. Hadn't said a word about them going anywhere, doing anything. That is all he said about them in that statement. You heard me ask him about it.

Just go ahead and sign something now so we'll know you were with them. Don't worry about the facts. We'll give them to you later on. You can come up with something later. The same thing with Allen Hall. Give him one of them sign and give facts later statement.

He comes in here and photographically describes to you how Joe Wright was out here. Everybody else had one gun, but Joe Wright had a shotgun and a pistol with a jacket on that shined in the back with some bullets on it, with bullet stained on it. That is Joe Wright.

In that statement he didn't say a single thing about Joe Wright having a gun. He comes in here and tells you how Reginald Epps was up in the loft on Friday night, and he handed him a drink of water.

See, Allen Hall is everywhere. He's got to hand the man a drink of water in the loft to make sure he is up there. See? I don't understand it, ladies and gentlemen.

Here is a man who claims to know everything about everything that happened and he signed a statement that doesn't have any evidence. He signs a statement can't even tell you where he was, so he says, but he can tell where everybody else was. This is the context in which this case was put together, photographs and pictures, papers and books and diagrams. That is what this case is all about in putting it together.

Now by this time the State has its two chief witnesses. They got the madman who is going to charge at the lawyers if they ask him too many questions. He is ready, and they have got the murderer who is so cool that he goes to reform school on vacation. They have got both of them together and ready to testify.

Isn't it strange, ladies and gentlemen, that both Mitchell and Hall sit here and tell you there were seventy-five to a hundred people in church on Friday night and something like that number in the church on Saturday night, and when the State gets ready to get its witnesses to testify they start emptying out Cherry Hospital? Just go up there and empty out Cherry Hospital to get some witnesses.

So they decided that emptying out Cherry Hospital wasn't enough. So in May they go on past Cherry Hospital

and go all the way up to Rocky Mount. Now they are going to empty out the training school. And up pops little Motor Mouse. Little Motor Mouse. Just a cute little fellow, just as quick and smart as any you'll ever going to find.

So they went up there and talked to Motor Mouse, and two weeks later little Motor Mouse is out of training school and back in Wilmington. Two weeks after that Motor Mouse is meeting with Jay Stroud, Dale Johnson and Brown out at the Holiday Inn in Wilmington. Little Motor Mouse has arrived. Now he is at the Holiday Inn in Wilmington talking with the Solicitor and Mr. Brown and Mr. Johnson, the man who put him in the reform school. Mr. Brown don't live in the Holiday Inn. Mrs. Brown don't live in the Holiday Inn. All of them are talking to Motor Mouse, and low and behold what have they got with them. The picture show. The picture show. Got to put on a picture show for little Motor Mouse. Got to get Motor Mouse ready. They had already taken pictures up to Rocky Mount. That must have been some real interesting pictures, ladies and gentlemen, but I swear they show him pictures of everybody they could find. Motor Mouse, Mitchell and Hall. Emptying out the jails, the prisons, the mental institutions and the training school. Got to get some witnesses here, got to try the case. We have got the

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photographs. We have got the bullets. We have got the bandages, we've got the paper, we've got the shotgun shells and the bullets. All we need is some witnesses. We know Hall is going to come in here and say Ben Chavis told them little children how to shoot so they shot up the inside of the church. So we need Motor Mouse to show there was little children in that church. See?

So they had them all together. They got Hall. They got Mitchell, and they got Motor Mouse ready to come to try this case.

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Now when they called out the list of witnesses to you at the outset of this trial, they must have had some doubt about Motor Mouse. He must not have been ready. They never told you that Motor Mouse was coming in here. They never asked you if you knew Motor Mouse. We never got a chance to ask you if you knew Motor Mouse. Got Motor Mouse in a trick bag, pulled him out of a hat just like a rabbit. Get ready for him when you need him. After everything had been presented you heard from Hall. You've seen him go through his gymnastics on the stand.

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You heard from Mitchell. He told you about the nice vacation he had up at the training school. He got a

little tired of it so he escaped. You heard from him.

You had even heard from one of the defendants and then the State reaches back in its trick bag and up pops Motor Mouse right on the stand. Motor Mouse is smart. He catches on quick. No question about that. Say you would show this picture to the Jury.

"Who is that?"

Motor Mouse ain't going to say nothing unless he knows what he is doing. See what you're talking about.

Hunevol asked him, "Where did you go to Court before you went to training school, or did you go to training school before you went to Court?"

"What you say?"

You pulled nothing on Motor Mouse. He got to be a smart one. Here's rock a grown man eleven year old rock a grown man, you saw how big he is, Motor Mouse. Knows his way around, little Motor Mouse; knows what it is to be dealing with police and solicitors. Motor Mouse already knew before he was eleven years old. He had lied to his grand-mama when ever he felt like that is what he ought to do; lied to police officer whenever he felt like that is what he ought to do; lied to the store owners whenever they

caught him stealing, been stealing so long he can't even remember when he started; eleven year old been lying so long he doesn't know when he started, that eleven year old.

Why did the State hide Motor Mouse. Did they know that Motor Mouse had been lying since back before he could remember? And was probably lying then? I don't know why they didn't say, "Well Motor Mouse is a potential witness, ladies and gentlemen. Do any of you all know Motor Mouse? Motor Mouse is a witness we might bring in here. You might ask the people if they know Motor Mouse."

For some reason they must have thought they weren't going to use Motor Mouse, didn't need to use Motor Mouse until at some point he panicked and realized that Hall and Mitchell had lied so much that nobody would believe them and two liars wouldn't make it. You'd better bring in a third one. If three people tell the same lie, maybe somebody is going to believe it, and thus Motor Mouse. Better not get Motor Mouse to sign a statement. He is a little young. We'll just show him the pictures everytime we see him. Allen Hall already met with him at the Holiday Inn and primed him, told him what happened, what he was going to say happened.

Why in the world did Allen Hall have to meet

Motor Mouse at the Holiday Inn? I mean why? They ain't going to tell you, "Well we need to see if Motor Mouse can identify Hall or whether Hall identify Motor Mouse." Well they had pictures of everybody else. They had pictures of people going to a funeral, pictures of people down at City Hall. They had got pictures of everything. They have got pictures of the church, the church balcony, the church bathroom, basement, everything you can think of they have got a picture of, but I wouldn't be surprised if they tell you that they needed to take Motor Mouse so he could identify Hall.

Well Mitchell wasn't down there. They didn't take Mitchell to see if he could identify Motor Mouse. Why didn't they do that? I don't know. I can't think of but one reason Allen Hall and Motor Mouse met at the Holiday Inn. That was so Allen Hall and Motor Mouse could get together under circumstances satisfactory to Allen Hall at the Holiday Inn. That is the context in which this case is put together.

Everytime they talked to Motor Mouse they showed him photographs. They showed him photographs the morning before he testified. They showed him photographs this past Sunday. Little Motor Mouse, thirteen years old, says he knew everybody but they got to show him these photographs



everytime they talk to him. Why? He doesn't need any photographs to identify people he's been knowing for a long time. Doesn't need that. But that is the context in which this case was brought into the Courtroom.

Now here's Allen Hall. He is familiar with every crook, nook and cranny of that whole two block area between Seventh Street, Fifth Street, Ann Street and Mun Street. And now why? He told you why. They took him out there about three weeks before this trial started. Mr. Stroud, Mr. Johnson, Mr. Brown, Mr. whoever else it was, and Allen Hall. Going out there to make sure he had it all together. Been talking to him for a year now. He'd already signed a statement back in February. Got to take that extra step to make sure that they are doing it right. Don't want any mistakes about that. This is the context in which it was put together.

Allen Hall sat right over there where Mr. Predlaw and Mr. Brown are sitting now during this jury selection process. What in the world has Allen Hall got to do with selecting a jury, but he sat right there. What was that a way for Allen Hall to be sure that when he stood up from the stand he could say, "Now that is Marvin Patrick seated in the back with the rust colored shirt trimmed in black

and the black pants. And that is Wayne Moore seated next to him with the purple shirt trimmed in green with the rust colored pants on, and that is Jerry Jacobs seated over there with the red green and black plaid shirt on and Connie Tyndall is seated in the yellow next to him and Joe Wright is seated in the front here with the maroon pants and the light maroon shirt, and that is Rev. Chavis over there dressed in the clerical garb, and over here is Willie Vereen in the front in print shirt, and next to him James McKoy in the back and over there on the end is Reginald Epps."

That is really impressive when Allen Hall stands up and says that after you had been sitting here in the room looking at people for two weeks and after having viewed photographs everytime you turn around. What else are you going to say? Suppose somebody called upon me now to identify you. I could point you out if I wanted to if I needed to. We have been here together for five weeks. I could say that is Mr. Leland Jones back there and Mr. Julian Wooten/<sup>is</sup>seated next with the khaki colored shirt and Miss Sue Murphy in front of him, and right next is Mr. Paul Ward, and next to Mr. Ward is Miss Simmons and she is the young lady seated right next to Mrs. Cox, who has on the black and white print and blue shirt, and then right behind Mrs. Cox

is Mr. Sutton, the gentlemen with the pink colored shirt on, and next to him to his right is Mrs. Williams in the blue, and right over on the other side of Mr. Sutton is Mr. Meredith, and right next to Mr. Meredith is Miss Day, Miss Agnes Day, and in front of her is Mr. Menthe, and right next to him is Mrs. Colvin in the blue, and we come up there and Mrs. Anders and seated on the front to my left, and right next to her is Mrs. Jacobs, and the gentlemen on the end is Mr. Deal. Ain't no big deal for Allen Hall to stand up from the stand and tell you who these people are seated here. Anybody can. They have been here long enough. That is supposed to be impressive when he can look out there and look at all of them. He's been looking at the pictures for a year and telling lies all the while. That is the context in which this whole case was put together.

Now why was it put together in that fashion? Because, ladies and gentlemen, the prosecution made a judgment on February 8, 1971, that the people in Gregory Congregational Church had to be blasted out, had to be gotten out of there; and they came there on February 8, 1971, that is Monday morning, with what they call politely an A P C. An armored personnel carrier I think they call it. That is the nice

name for it. It is nothing but a big round vehicle that carries some soldiers with some guns in it. They were ready to try them, prosecute them, and sentence them, judge them and sentence them right there on Monday morning after they found them there. That included little Motor Mouse, too, if he had been there.

On February 8, 1971, they were out there. Police decked out in flack vests. Soldiers riding in an armored vehicle. Police all over the place. They are out there on February 8. Judgments had already been made. Perhaps the most notable who had been in the church as it turns out according to their theory, was Ben Chavis; and they started snapping photographs of him everywhere he went. If he went to a meeting they got a photograph. If he went to a funeral they got a photograph. If he went to the bathroom they might have some photographs of that. Everywhere the man went they got photographs.

They had already decided what the case was going to be about. It was just a matter of getting somebody to come in and say what it was. Why from those hundred people from Gregory Congretional Church, do they end up with Motor Mouse? Cute in a way and very sad and pitiful, in another armed robbery at eleven years old or one breaking and entering.

before that. It's kind of sad. It's kind of sad. It was sad for me to see him sitting on this stand and telling you that he had been lying ever since he could remember to his grandmother who was raising him and lying ever since he could remember to police and firemen and store owners. It was very sad for me, ladies and gentlemen.

And I didn't see any point in taking little Motor Mouse through the same kind of cross examination that we took Allen Hall. I could not do that to that little child, although I did feel that it was necessary to ask him some things about his background in order to reveal to you the context in which his testimony was given. It is very sad. He was a very, very vulnerable little boy. It hurts me to see that he was used in the way that he was in this Courtroom on this witness stand. But he was. He, if you ask me, was the saddest of all of the witnesses that was brought in here by the State. But then the other two chief witnesses are sad, pitiful young men with broken lives too.

Jerome Mitchell, a murderer at sixteen - seventeen an armed robber at the same age. I suppose truth and justice don't mean very much to him any more. He would come in here just as cool and blow your heads off if he thought you had.

something he needed just like he did that store owner down there. Very sad, pitiful young man with a broken life.

All of the people who say Allen Hall was in the church they come up with Motor Mouse and Jerome Mitchell, two very vulnerable young men, very very sad lives, very pitiful, very sorry. And even Allen Hall himself, ladies and gentlemen, is a very pitiful, pitiful soul. I felt more sorry for him than anger at him when he charged from the witness stand in the way that he did. I realized then that here is a man with a very, very sick mind. Here is a man subject to almost anything. Here is a man who we backed into a corner; we caught in the vice of his own lies would jump up and charge at anything close to him. And then when I saw that which was not the first time I had seen him, I realized that Allen Hall in a tight spot reacts just like a drowning man. He reaches out and just tries to pull down anything that he can grab and take down with him, just whatever is close by he reaches out and grabs and pulls with him. That is really, ladies and gentlemen, what happened to Allen Hall back in May of 1971 and the times that followed. He realized he was backed into a corner, and he started reaching

out and pulling down anybody that he could find just like a drowning man. "If I could save myself, I will. Worry about the others later."

Don't you find it sad, ladies and gentlemen, that these are the kind of witnesses that the State has presented to you in this case? Three men with utterly depraved lives, utterly broken spirits, very very vulnerable; and they were all brought in here by the prosecution; put on the witness stand to support a case that they had already decided which way it ought to go. I find that sad indeed, ladies and gentlemen.

And although I know it was my responsibility, we knew it was our responsibility to deal with them harshly if need be in order to get at the truth, I don't think that there is any question that I asked anyone of them that didn't hurt me in a sense to see how sad and pitiful they were. Their lives will probably never again be any good to themselves or anyone. The pattern in which they are going has already been established. I hope that somewhere, some day their lives can be reconstructed; that somewhere somebody will help little Motor Mouse find his way and realize that armed robbery is not the way; that breaking and entering is not the way; that to come into Court and say things that are

not true is not the way.

I hope that somewhere along the line Allen Hall will realize the error of his ways and be reconstructed. I hope somewhere along the line Jerome Mitchell, as fallen as he is, will show you, be able to reconstruct his life, and do something useful.

The likelihood of that happening is perhaps remote, but perhaps all is not lost at this point. Wouldn't it seem that out of all the persons they said were assembled there they could bring in one decent witness, one believable witness? They haven't even done that. Now why? Why?

Let's look at the rest of the State's case and see what it was. I always like to think back with you because usually on jury selection the reason for the questions generally come out in the presentation of the evidence. Now you will recall I asked all of you whether or not you would believe the police officers more quickly than you would other persons in the trial of a case. Now if you look at the 40 witnesses that the State brought in here and put on the stand, only 12 of those 40 witnesses were civilians. All of the others were police and firemen. Why?

Ladies and gentlemen, they knew that never for one minute would you believe what Allen Hall had to say. They



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knew that never for one minute would you believe what Jerome Mitchell had to say. They knew that never for one minute would you believe little Motor Mouse. So the idea is to bring in somebody who may be believable and present what they had to say in juxtaposition to what these other pitiful souls had to say and perhaps somebody, somewhere would believe it. That was the theory and that is what happened.

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If Jerome Mitchell will say that on Friday night he went down to Dock Street along with some other boys and shot at somebody's house, then it makes him more believable to bring in Mr. Smith, Mr. Fred Smith, who was not a police officer to say, "Yes, my house was shot into." And to have Mr. Smith sit on the witness stand and identify three photographs.

This whole trial is about photographs showing where his house was shot into and when you say, "House. House was shot into," like that, then you say, "My God, I have got to believe Jerome Mitchell when he says he was down there with someone doing it." All of that to make Jerome Mitchell more believable.

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They knew that Mr. Smith's house had been shot into.

They knew that if Mr. Smith come in and said one thing, although he couldn't tell you a thing about Jerome Mitchell, if they say the same thing about the house, then this means that Jerome Mitchell must be telling the truth about everything else he said. It's a simple matter of looking at a report, seeing if Mr. Smith's house was shot into and coming on the stand testifying.

I could make a better witness in this case than Jerome Mitchell, Allen Hall, Motor Mouse, Just by looking at the photographs I could weave together a story like something you have never heard before. Just by looking at the pictures I could give you a whole long story on everything that happened on Thursday, Friday, Saturday, Monday, Tuesday, just by looking at the pictures if I had a mind to do so. It is not difficult to do. That is what that evidence is all about.

If you can get some police officers to say that on Friday night we were down at Fifth and Nun and somebody threw a firebomb and then Allen Hall comes in and says on Friday night, "I was down at Fifth and Nun and I threw a firebomb or somebody I was with threw a firebomb at the house and it went out, and we went back." That makes Allen Hall a very believable witness. He is saying the same thing, the police

officers are saying. So we have to got to believe him. These police officers knew on Friday night what they saw. Allen Hall talked with police. I am sure Mr. Stroud talked with police on different occasions during this whole period of time that he was talking with Allen Hall countless times. I am suggesting that they had to tell him everything he had to say. All you have to do is say, "Allen Hall, if you were there on Friday night didn't somebody go down and throw a firebomb at this house on Fifth and Nun Street, and didn't you leave and go back down to the church?"

"Yes, sir; Mr. Stroud, that is what we did."

"Allen Hall, on Friday didn't three people throw something at Mike's Grocery; a firebomb? We found some bottles outside of the store. Do you remember that happening on Friday night?"

"Yes, sir; Mr. Stroud." "Yes, sir; Mr. Brown, I remember that happening whenever I left the church and went out there, that is when we threw those firebombs out there and didn't one of them go into an upstairs window and another one in the downstairs. Yes, I believe that is the way it happened because whenever we threw them that is where they went."

You don't have to sit him down and say, "Allen, go to Court, say that somebody threw firebombs." You don't have to say, "Allen Hall, go to Court and say Ben Chavis taught you how to make firebombs Allen Hall, go to Court and tell them about the people who were at the church."

"I don't remember."

"Let's see the pictures. Was Joe Wright there?"

"He was at the Press Conference they had on Monday. I believe he was there. As a matter of fact, I believe he had a gun. No, he had two."

"And wasn't Ben Chavis there directing everything whenever they had these public meetings? Ben Chavis was out front, wasn't he, there telling everybody else what to do?"

"Yes, as a matter of fact, he was."

Anyone of you could have been a witness in this case just by looking at the photographs and the exhibits and the pictures and what-have-you if you had been of a mind to do so. Anybody could have done that it was a very, very simple matter.

Now maybe you feel, well, perhaps that didn't really happen. But it could have. Remember you have got

to be convinced beyond a reasonable doubt. That is what you have got to do. Isn't it very easy to look at a photograph and a picture in the newspapers Mrs. Decker? I am sorry, Mrs. Watts, sitting there in her car talking to police and firemen?

"Yes, I remember that because that was up the street here, and we went up there, and we were shooting, and she came by there."

Have you noticed how everything that boy said tied right in with something the police said or something somebody else had to say? Have you noticed that?

I mean why? Why this perfect fit? Allen Hall says it. A police officer comes in and backs it up. Allen Hall says it. They find a civilian to come in and back it up, somebody who was shot. Something about the way this case was put together that bothers me, and I think it is going to bother you.

I don't see how you could feel beyond a reasonable doubt that it couldn't have happened that way. I wasn't there, and you weren't there. We don't really know. The only one we had to tell us about it was Allen Hall. You see? That is what this case is all about. That is what you got to look at.

Then you say, "Why? Why? Why would anybody want to do that?"

Ladies and gentlemen, we talked about the way people could get wrapped up in things sometimes. If those police were out there and they were fired upon they weren't happy with it on Friday night or Saturday night. Those firemen were out there putting out that fire at Mike's Grocery in trying to put out that fire at those ladies' homes. They weren't happy if someone shot at them. That is a very dangerous thing. It is a very difficult situation and that would be a reaction to anyone who did it or anyone who might have done it.

You all heard about that weekend in Wilmington. It was well known in this area of Wilmington, throughout the country I am sure. And you can imagine the tremendous pressures to convict somebody of something because all this shooting happened, because this burning happened. Somebody's got to pay for that. There was damage done to this man's store; these poor people have lost their homes; our police and firemen have risked their lives; somebody's got to pay for that. Who is the most likely person?

There they sit. There they sit. Somebody connected

with these marches downtown, somebody connected with Gregory Congretional Church is the cause of all of this. Somebody's got to pay. Perhaps we will never get everybody, but we will get somebody.

And here you have nine young men and one young lady. The State will say, "Well why these? Why not someone else who was there?"

I can't answer that. I wasn't there. When Allen Hall looked at those photographs I don't know why he picked these particular persons. Maybe they were the ones who showed up on some of the photographs downtown or these were the ones who were put there, the ones they had photographs of, and that was the best they could do.

We know why Joe Wright was at the Press Conference. Joe Wright was around. He was there everywhere they had a march. Perhaps they or Allen Hall knew something about Connie Tyndall that we don't know, and that is why him. Perhaps they knew something about Wayne Moore that we don't know. And that is why him. Or something about Marvin Patrick that we don't know, and that is why him.

Perhaps Allen Hall was in the church. Perhaps he was not. Perhaps he did have a scuffle with Chili about

the gun. Maybe Chili didn't think Allen Hall ought to be in the church with a gun. Maybe Allen Hall didn't like that. Maybe that is why Chili. I don't know.

Maybe Allen Hall had something against Willie Vereen that we don't know about. Or maybe there was some unfortunate picture or some suggestive picture of Jerry Jacobs that we have never seen. We don't know what was in those pictures. We don't know what was shown Allen Hall. We don't know what questions were asked him. We don't know what responses he gave.

Perhaps something about James McKoy; perhaps something about Reginald Epps; perhaps something about Ann Shephard. She, outside of the Templeton's, was the only white person there as far as I know according to what the State says.

I mean why? That may be a question that we can never answer, but we do know that it happened. We do know that without Allen Hall, without Jerome Mitchell and without Motor Mouse the State has not shown you one single solitary thing that any person seated around this table did; not one; not one.

The only other two people who have told you that



they have ever seen anyone of these defendants was Mr. Chipps of the police department who many of you may know, and Mr. Weiss who said he thinks he saw someone who looks like him at his chinchilla farm one day.

Now I ask you if you would convict these people on trial here on the words of these three people. Can you believe them beyond a reasonable doubt? That is the real question. That is what this case boils down to, ladies and gentlemen.

Can you be morally certain that what Allen Hall was telling you on this witness stand is true? Can you be morally certain, convinced beyond a reasonable doubt that what Jerome Mitchell had to say is true? Can you be morally certain and convinced beyond a reasonable doubt that what Motor Mouse said was true?

And remember Motor Mouse didn't say much. They used him for a limited purpose. Perhaps from May to September was not enough time to get him to say everything. They will tell you that is because it was rebuttal testimony. But he didn't say much. They only had him testify to the statement that he says he heard Ann Shephard make and the statement that he says he heard Ben Chavis make. He didn't tell

you how in this strife torn area somebody took him out-  
side and got him a taxi cab to go to the hospital and how  
in this strife torn area a taxi cab brought him back. That  
is what he said happened.

If the State felt that Motor Mouse had true,  
relevant testimony to give in this courtroom, why didn't  
they present him as a part of their case in chief?

Is this a game we are playing where you hide  
witnesses in a bag and pull them out when you want them; or  
are we here to seek truth and justice? This is a serious  
trial, ladies and gentlemen. It is not a game. This is not  
"Pull the rabbit out of the hat." It is a very, very serious  
matter to each one of these persons who sit here. And you  
don't toy around with lives of men and women by pulling boguses  
out of a hat in a very, very serious criminal trial.

They presented to you every police and firemen who  
was out there I believe. They presented to you everybody  
that they could find anywhere who would say anything about  
what happened in that area. Why did they have Motor Mouse?  
It is very, very strange to me indeed. Perhaps for some  
reason he wasn't ready. Perhaps for some reason they didn't  
believe him. And then out of an act of desperation perhaps

we'd better give them everything we possibly have, even little Motor Mouse even if we know he is lying.

It is a very, very serious, a very, very heavy matter we are dealing with here, ladies and gentlemen.

THE COURT: Members of the jury, we are going to take a short recess now, about ten minutes. You return to your room.

(The Court recessed from 11:20 until 11:40.)

THE COURT: We'll/<sup>not</sup>take a recess until about 1:00 o'clock. If anyone has to leave, I want you to leave now. We'll not have any noise. Let the jury come in.

(The jury returned to the jurybox.)

(Mr. Ferguson continued his summation to the jury as follows:)

May it please the Court, ladies and gentlemen, I think you needed that break about as much as I did. It may seem that I am talking for a long time, but if I am I think it is only because I think there are important matters here that we need to deal with. If you could bear it for over two and a half or three weeks while they presented a lot of things to you that we consider irrelevant, we are only

asking for a few hours of your time to listen to us talk about them. It is important, and this is the only time that we have to talk to you.

You remember when we were questioning you we told you that that was the only time you would have to talk to us, and we spent about two weeks talking to you and so we are only going to spend a little more time with our talking to you.

I think you may have seen that the upshot of the things that we have been trying to project to you boils down to this. It raises the question "Who corroborates whom?"

Now the State put - I keep calling them the State - it is really the prosecution. They are going to get up here and say they represent the State of North Carolina. You are part of that state, and you have got to identify with them. The question is "Who is corroborating whom?"

They presented Allen Hall and Mitchell to tell you some things about the defendants, about the persons on trial here. And then they presented to you a long string of people that they say corroborate the things that Hall and Mitchell told you.

We say differently. That it is the other way

around. Allen Hall and Jerome Mitchell are, in fact, corroborating the police.

The police have a series of events which they say occurred over the weekend of the 5th and 6th.

Excuse, me Your Honor, the lady may need some water.

(A juror was handed water.)

I really think when you think about that, that is, in fact, what is happening here. Allen Hall is attempting to corroborate the police and other persons that the State has been able to find to say that something happened to them.

I am not going to dwell on this because I think that the picture is clear. We have already shown you that all the facts that Allen Hall testified to were in the possession of the police a full year before Hall ever made a full signed statement. And even then he left a few things out, picked them up and come out with them. My colleagues pointed out some of the inconsistencies in Hall's testimony given previously under oath and his testimony on the witness stand and also some inconsistencies that he made in his statements that he signed and the

testimony that he gave from the stand.

Now I am sure the State will argue to you - again - the prosecution, that these inconsistencies don't amount to a hill of beans. They only reflect the fallacy of memory over a period of months or a year, and that basically his testimony is the same.

They will tell you that it doesn't matter, that under oaths he got no further to Fifth and Nun than the intersection of Sixth and Nun, and then on the stand told you that he came down all the way the middle of the block. They say that really doesn't matter because he was out there. That is the point. He was out there, and he was out there with these nine young men here. So don't worry about that, ladies and gentlemen. This is just an inconsistency that anybody might have.

But now is it? Is it? You will recall he talked with the police and with Mr. Stroud quite a bit since the preliminary hearing. You will recall that he said since March of this year he was moved to Onslow County for awhile and that he was visited there on numerous occasions by Mr. Stroud and Mr. Brown and other police officers and talked with them more times than he can count, more times than he

can remember. After he had already testified about the one time, what is the point in conversing with him so many countless times again? That is where the inconsistencies become very significant.

You will recall that when the police testified albeit, after Hall testified they said that when they were down at the intersection of Fifth and Nun they were drawing fire from along Nun Street to the left over there. Now if the closest that Hall had gotten to that intersection or to the intersection of Fifth and Nun was the intersection of Sixth and Nun, then the firing couldn't have been coming from down in this area along the street there half way down the block. So in order to corroborate what they said he had to take the intersection of Seventh and Nun and move it down to Sixth and Nun and take intersection of Sixth and Nun right off the diagram and move it down to Fifth and Nun so he could tell you he was down in the middle of the street, so he could be where the police said they were drawing fire from.

You see this establishes a pattern of how the things that he says have to tie in with the things that the police say, and that is one way of doing it, by changing it

around. But at the same time he has to tell you that he could look behind his back and count the shots that were coming from behind him because the police also said that they were drawing some fire from down at the intersection of Sixth and Nun. Its got to tie in. He's got to make it tie in.

He sees that as his sole responsibility as a witness in this case. Whatever he needs to say to corroborate what the police officers said happened to them is what he will say.

Now I asked him if at the preliminary hearing he said anything about the police wearing helmets and that being a way that he could see them. And he told you when he testified under oath previously he didn't say that. He learned since that the police had helmets on and flack vests or whatever they said, and he had to change the testimony to let you know that whatever the police said is exactly what happened. That is why these inconsistencies are significant because it shows you what his testimony is all about.

So they say, "Well it doesn't matter whether he knew the police had helmets or not if he knew they were out



there and firing.

The point is if he says it one way under oath at one time and learns later that the police said it differently or are going to say it differently, he has got to change that to make it fit in. So when they tell you that these inconsistencies don't matter, you think about that. If it don't matter, why is it changed?

Allen Hall has to see that his testimony fits right in with whatever the police say happened or whatever anybody else says happened out there. And I want you to keep that in mind throughout his testimony.

Another point. Now he said that when they came down there on Saturday night - we are talking about to that intersection - and somebody threw a firebomb and it bounced back off the porch, no doubt he knew the police were going to come in and say that they talked to the man, and he kicked it back off the porch. You see? It ties in perfectly, fits right in, just like putting a puzzle together where all the parts have been previously cut out.

And Hall has to be everywhere that anything has happened. He has got to do that. Otherwise, he doesn't serve his function. So although a police officer would tell

us that they were being fired upon at Fifth and Nun and some of them said, as I recall it, that they left Fifth and Nun and drove on around to Ann Street and started towards Sixth Street and they could see a blaze at Mike's Grocery and that a fire truck was backing down the street. Now Hall said that after they left the intersection at Fifth and Nun that he went back to the church, and three people made speeches; that he went over to Rev. Templeton's house with Chavis and came back to the church; that he walked out on the porch and Marvin Patrick made some statements about people who might be good shots, and then he said they came out to the building, walked up and down Sixth Street to see if anybody was there, and then they went behind the church to pass out the firebombs; they went down to Mikes, set the firebombs in the street or right there on the porch in front of Mikes, came all the way down to the corner of Fifth Street and Ann, saw Father Jones over there and hollered out to Father Jones, "Is that you?" And he told somebody not to shoot.

Now did all of that happen in a split second? No, but Hall has to be everywhere that everything is happening. He doesn't have any regard for truth. He doesn't care how

he tells you he got there. All he figures he needs to do is tell you he was there.

You see, he knew these officers would say they were shot at Fifth and Nun, and he knew that Mike's Grocery had burned down. So he has to tell you that that is what he did.

That he has to try Chavis, Wright, Patrick, Moore, Jacobs, Tyndall, Vereen, Epps and Ann Shephard in all he is doing. So he has got to go back to the church and say something with them. He has got to have them leaving the church going out to the back of the building to get the firebombs. He has got to do all that.

Fast man he is. Well he is a fast man. He came off the stand pretty fast, but I don't think he is quite that fast to do all that. But he had to tie the Father Jones incident in. Because that is something that someone said happened. And isn't it interesting that Father Jones' statement was signed on February 17 and Hall's on February 18? Isn't that interesting?

And Hall puts himself right out there. He has got to be everywhere that anything is happening. He can't miss a thing. Again, who, ladies and gentlemen, who is corroborating whom?

Allen Hall is corroborating the police. That is what is happening. Whatever they say happened had to happen. Whatever they said happened had to involve these persons on trial. Whatever happened had to have involved Allen Hall because he had to come here and tell about it. So he has got it all fixed up.

And then Mitchell. It is important for him to keep himself out of everything. So all that Mitchell can do is be there when people are leaving and be there when silhouettes are running out of the dark. That is his role. He is the <sup>man</sup>/who stays behind. He is the murderer who can't afford to have anything else against him. He is the man who sits up here and tells you he didn't say anything about Saturday night until this past July because he didn't want to do anything to involve himself. Then he comes right back and tells you that on Saturday night didn't anything happen to involve him. Anyhow he already said that on Friday night he went with a band down to Dock Street and Fifth.

Can you believe anything that boy said up here on the witness stand? My God. But its all got to tie in. Its all got to fit in somewhere. It's a puzzle with the

pieces all cut out, and you just have to fit them together for purposes of this trial, ladies and gentlemen. That is what we are all about.

Motor Mouse has to fit his statement in. He has to tie it in with Ann Shephard because the State is going to take the position that the only reason they brought him in was to rebut what she and her witnesses said. Motor Mouse has to remember that Ann Shephard made the statement, "We are going to show them crackers we mean business." Or, "We are going to show them punkies we mean business." It doesn't matter which he says. Once you call them a name they have got to show Ann Shephard said it. It's got to tie in. They brought him for that limited purpose.

It surprised me when Motor Mouse didn't tell you that Ben Chavis was in the church showing him how to shoot guns, and he and others were in the church shooting guns. That did surprise me a little bit, but then again they hadn't expected to use him. Perhaps he hadn't gotten all of his part right. So they used him for that limited purpose.

Can't you see whats happening? Can't you see what this case is all about? Not one corroborating witness of what Allen Hall actually said he did other than police and

people who have made reports to police. Not one, not a single one.

He would tell you that his uncle was drinking liquor with him on Friday night in one statement and turn around and say, "No, that was Saturday morning. I was drinking with my cousin."

Do you know why he said that? Just like about the context of which it happened. If you will think back with me it came out on cross examination. I asked him very carefully what time he came to the church on Friday. He said around 5 or 5:30. I asked him what did he do. He said he stayed a few minutes and left and went around the corner to talk to Marvin Patrick, that he was on his way to his cousin's house then, but he decided he needed to come back. All of a sudden he is very needed there. He says he has never been in the church that week, but on Friday he is indispensable. He couldn't get back from his cousin's house. He said he came back from Rev. Templeton's house, saw Chavis and some fellow. Said John Robinson, whom we have never seen, again and they went out to Oleander Shopping Center, bought some ammunition, stopped some place to buy some gas, stopped somewhere else to buy the gas and

came back.

Mr. Becton pointed out to you that a white man and some lady, she saw the van, and then there was some talk about the Chicago strategy. He went up first in a bedroom and there was Chavis told him if he wanted to do a job and he went to Mike's Grocery or behind the church and to Mike's Grocery and made an attempt on it that night. Remember you had police to come and tell that an attempt was made to burn Mikes that night. He has got to tie it in.

Then he said he came back over and they went back and forth between the church and Rev. Templeton's house. I don't remember exactly what he said. But at any rate they ended up going down on Fifth and Nun and making an attempt to burn that house down there.

Then the police came in, told you there was an attempt on the house on Friday night.

Then they went back to the church. There was some talk about making firebombs and demonstrations about making firebombs and what-have-you. And then he left to walk Molly Hicks home, and he came back and on direct examination he had already said that was around 12:30 or 1 o'clock.

And I said, "Allen Hall, did you leave the church anytime other than that?"

And he said, "No, sir; I didn't."

And then I said, "Allen Hall, didn't you sign a statement on February 18, 1972 saying that you went by your Uncle Charles Graham's house, that he was not there, that his wife, his aunt was there, that she left and went out and got some fried chicken and came back and by that time your uncle was there and they had a drink and then he left there and went down to the VFW Club and jived with Mamie Sellers?"

And he said, "Oh, that was on Saturday morning."

It was because he had been caught in a lie about Friday night and couldn't explain it. So the thing to do was to move that to Saturday morning.

Bear in mind now he had already told you everything he did on Saturday morning. He told you he got up and went over to Rev. Templeton's house. There was talk there, and that Ben Chavis was talking about collecting money that he and Jacobs went up on Castle Street. He gave Jacobs some money to go buy some lime, and he went over to Rev. Templeton's house and he and Rev. Chavis or Marvin Patrick went to his aunt's house, got chicken and came back



and got them prepared. He had already told you that out of the clear blue. I asked if that is what he did on Saturday morning.

"I really went to my uncle's house on Saturday morning. I didn't really go to my uncles. I went, got the liquor into my cousin." He had already told you his uncle lived on Castle which is a distance from the church. He has got to be at his cousin's house, which is nearer the church. And he came right back.

Bear in mind I had already asked him before that, "Had you anything to drink on Friday night?"

"No."

"Had you anything to drink all that weekend?"

"No."

But then he got caught in that lie, and he had to move everything he had said about Friday night up to Saturday morning. This is the same Allen Hall who can tell if James McKoy fired five shots and Connie Tyndall three and he can't even remember what he did on Friday night. And he wants you to believe it. He's got to move it around, shift it about to fit the facts that he had already learned about. That is what his testimony is all about.

And you saw how he reacted when he lied. Mr. Stroud told him everytime he did anything, told him what time he got to church, told him what time he went to Fifth and Nun, told him what time he went to Sixth and Nun, told him what time he went to Mikes, told him what time he went to Molly Hicks' and Peanuts. And everytime it is about something. Told him what time he came in on Saturday night. He had his time pre-set just like that. When I asked him about it in a different way he couldn't tell you a single time he did anything. And got mad at me and charged me from the witness stand because I asked him about it.

He was caught in a corner and he reacted like the vicious character that he is. And in a split second later after recess came right back here and sat there just as cool as anybody you have ever seen in your life. Oh, he can do it. Who is corroborating whom?

I am telling you that Allen Hall will sit on this witness stand and tell you lie after lie in order to get it right to fit in to corroborate what the police officers said. Keep that in mind when you weigh this case. Keep that in mind when the State tells you how terrible it was that police and firemen were shot at, how terrible it was

Mike's Grocery was burned down. And I don't mean to tell you that these are not terrible things. They are. I can sympathize with that. I have experienced my office being burned down. I know what it feels like to have a building burned. I know how Mr. Poulos felt when he walked there that night and saw his store in flames. I know how Mrs. Jackson felt when she saw the place she was living in. I know how Mrs. McKeithan felt. I have seen it all. But you don't go out and convict somebody on the flimsiest evidence just because some tragic thing happened, and that is what this case is all about.

That is why you have had all of these bullets paraded before you that they say they found in the church. They are going to tell you a single shot was never fired at that church. There were just some people in there with guns who were revolutionaries getting ready to go out here and shoot up everything and tear up everything. They are going to bring in these bullets and say these were the bullets fired out on Nun Street on Saturday morning in the area between the church and the parsonage and the corner. And these are the shells that were found in the basement. And these are the shells that were found up in the loft with

these five chairs seated around there. And these are the scissors and the surgical tools that show they were preparing for war and wanted somebody to doctor them up when they got shot. And yet they are going to tell you that they sent the little boy to the hospital. You see? They are going to use it for one purpose on one hand/<sup>and</sup> another purpose on the other.

Now what would have been the most kind of definite evidence to connect these defendants with these bullets and shells that they say he found in the church, under the church, in the loft, behind the house? What would have been the most telling evidence that they could have presented on that point? Do you recall I asked them, two or three of these officers up here who testified about it?

"Did you ever submit these items to lab tests?"

What I was really asking them was, "Did you ever have any fingerprints lifted from them? Did you ever have any fingerprints lifted from those bottles, State's Exhibit 48 and 49, that you found out there on Sixth Street in front of Mikes? Did you ever submit them to a laboratory test to see whose fingerprints might show up on them? Did you ever send those empty boxes of cartridges to the laboratory to

have some fingerprints lifted so if Joe Wright had it you could say some here are his. Joe Wright's fingerprints are here. Ben Chavis's fingerprints right along with some others we can identify on these .45 shells are here. Willie Vereen's fingerprints on these empty .22 caliber to show you he had these shells. Here are Reginald Epps's fingerprints on these shells we found in the loft to show you he was there to receive that drink of water Allen Hall said he handed him said he gave him. Here are James McKoy's fingerprints."

Where is one single fingerprint? Where is one single lab report to show you that is what happened, if it happened? What did they do with them?

"We took them all down to the police station, put them in the shelf and put them down here to drag them before you, their theory being if they could show you enough stuff, and enough empty boxes, enough unspent shells, you would convict somebody, and it would probably be these ten people on trial. That is what this case is all about.

They haven't given you a single piece of believable evidence about any of these defendants. They have shown you that there was a burning which we don't contest. There

was. Mikes was burned down and it is unfortunate. The two residences were burned down, and that is unfortunate. Police were shot Saturday. That is unfortunate.

Does that mean that you have got to go to people in a church afraid to death because threats had been made on that church and there has been sniper fire at that church, and that they may have taken some action to defend themselves, whoever they were, in that church? Do you then go get those people and bring them out and convict them of burning down that grocery store and, by implication, those houses and convict them of conspiring to shoot at police and firemen because they said that they were out there?

Ladies and gentlemen, I hope you will reject this play upon emotion by the State. You will recall they asked you all, "Do you think there is any individual or group that can use violence as a means of furthering their aims?"

That is what it is all about. They are going to try to picture these people at this table as being a group that was bent on violence for achieving whatever goals they had. And that violence included burning and shooting and what-have-you.

And they brought these white people who had been

shot at so you could identify with them and think about it and say, "That could have been me. So I had better convict somebody."

And they brought in Mrs. McKeithan and Mrs. Jackson to tell you something that you already knew. That their houses burned because they wanted to say they didn't even stop at white people. They were shooting at black people's homes too. And that is supposed to appeal to the two blacks on the jury.

You are the peers of these defendants, ladies and gentlemen and look at yourselves and look at them. What is this case all about?

Have you been convinced of anything beyond a reasonable doubt other than that, that the store was burned down and that police and firemen were shot at? It may have seemed silly to some of you when we asked you if you felt that a crime had been committed out here. But when you look at it in the context that this case was presented, it makes all the sense in the world. We knew then, as we have seen now, that the only believable evidence the State could bring in the courtroom was evidence that indeed the store was burned and that shots were fired at police. And that

is all that they have proven. They have not proven to you that any of these defendants did anything. They have merely suggested it to you through someone like Allen Hall, Jerome Mitchell, and little Motor Mouse. That is all that you have been presented here.

That is what I want you to think about when the State argues this case to you. They are going to present to you a picture of war and revolution. They are going to show you that barricades were set up and armed guards put there and that there were arms in the church and all this was terrible and never a shot fired at the church and never a police officer who was being mercilessly fired upon, never fired a weapon. That is the picture that you are going to be presented.

And I am asking you to base this case on reason, not emotion. You are going to have to sit together as a jury and decide this case, ladies and gentlemen. And in that light you have two responsibilities. You have a responsibility to deliberate together, to try to reach a verdict; but you have a greater responsibility to follow your own convictions, your own beliefs as you see the evidence and in that each one of you as an individual and



whatever decision you make which effects the lives of these people here, each one of you has to bear individual responsibility to that, as well as responsibility of twelve.

And each one of you told us that you could make up your own mind about this case. And we took you at your word when you said that, and we expect you to do that.

Now, ladies and gentlemen, I have said a lot about Allen Hall and Jerome Mitchell and little Motor Mouse. They are not the only principal characters in this case. Often in the course of a trial because you heard the words "Defendant" so much you sometimes get the idea that defendants are just other objects in the trial. They are much more than that. These are people who are on trial here, ladies and gentlemen. These are some mothers' and fathers' sons. These are living, breathing human beings who feel and love and care and understand life and seek to live it with some enjoyment.

These are not defendants in the sense that they are objects. These are individuals whose lives will soon be placed into your hands, whose fate you will decide.

Now the thought is going to go through your minds,

well, why haven't they told us something? They have. Each one of them told you that he or she is not guilty of the charges against them. The Court will instruct you that they had no responsibility to prove anything to you, no obligation to prove anything. That is the State's responsibility, and that is the law, and each one of you said that you would follow that law. You can think anything you will, but your obligation is to follow and apply the law, and you must do that.

And understand that you have nineteen different decisions to make here. Not one, not two, but nineteen different decisions. You have got to decide whether or not it has been proven to you to your satisfaction beyond a reasonable doubt that Reginald Epps conspired, agreed, confederated unlawfully with the other defendants to assault police and firemen in the vicinity of 302 South Sixth Street on the 5th and 6th of February, 1971. You have got to decide that.

You have got to decide again whether or not Reginald Epps burned Mike's Grocery on the night of the 6th; and remember that little Motor Mouse even told you he never saw him. Perhaps he never saw a picture of him. I don't

know. But you have got to look at him as an individual, a young man on trial here, really just a child himself, and decide whether he did those things.

And you have got to do the something when it comes to James McKoy. You have got to decide whether the prosecution has proven to you that he actually committed these offenses. You have got to look at James McKoy as an individual and make that decision and be able to look him in the eye when you come back into this courtroom and say, "We say you did it." And say, "We believe Allen Hall. We believe Jerome Mitchell. We believe Motor Mouse. You did it."

And you have got to tell Willie Vereen that something before you find him guilty. You have got to look at him and all of the people whom they care about and say, "You are a criminal because Allen Hall said you were, and Jerome Mitchell said you were, and Motor Mouse said you were, and you are guilty of burning down Mike's Grocery Store and guilty to conspiring with others to assault police and firemen." You have got to be able to say that and you have got to feel morally certain in your own mind that he is before you can do it.

And little Joe Wright, you have got to make that