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1 MRS. EAKINS: No.

2 MR. STROUD: Would the fact that the defendants are
3 negro, would that in any way influence your decision?

4 MRS. EAKINS: No.

5 MR. STROUD: Now, the fact that they are young, would
6 that in any way influence your decision?

7 MRS. EAKINS: No.

8 MR. STROUD: Do you feel that you could serve as a
9 fair juror, fair both to the State of North Carolina and to
10 the Defendants?

11 MRS. EAKINS: I think so.

12 MR. STROUD: Are you aware of any feeling at this
13 time with regard to the cases as to the guilt or innocence of
14 the defendants?

15 MRS. EAKINS: No.

16 MR. STROUD: Mrs. Eakins, if the State of North
17 Carolina proved to you beyond a reasonable doubt that each of
18 these defendants was involved and participated in the planning
19 and conspiring to burn Mike's Grocery Store, in Wilmington,
20 with an incendiary device or devices, and that they further
21 planned and conspired to assault emergency personnel with a
22 deadly weapon in the vicinity of Mike's, will you find them
23 guilty as charged?

24 MRS. EAKINS: That's right.

25 MR. STROUD: If the state proves to you beyond a

1 reasonable doubt that all of the defendants except the defendant 152
2 Kirby and the defendant Shepard participated in the burning of
3 Mike's Grocery Store with incendiary devices, would you find
4 them guilty as charged?

5 MRS. EAKINS: That's right.

6 MR. STROUD: Thank you, ma'am. Mr. Moore, the state
7 will excuse you. Thank you, sir.

8 CLERK: Herbert M. Murray (WHITE).

9 MR. STROUD: Mr. Murray, you are presently a resident
10 of Pender County, is that correct?

11 MR. MURRAY: Yes.

12 MR. STROUD: And how long have you been a resident
13 of Pender County, please, sir?

14 MR. MURRAY: All my life.

15 MR. STROUD: What is your occupation, please?

16 MR. MURRAY: I farm and work at G.E.

17 MR. STROUD: Would you repeat that, please, sir?

18 MR. MURRAY: I farm and also work with General Electric,
19 at Castle Hayne.

20 MR. STROUD: Mr. Murray, did you hear me and have you
21 heard me review the charges that the defendants have been
22 indicted with and stand trial for at present?

23 MR. MURRAY: Yes, sir.

24 MR. STROUD: Now, do you know any of the defendants?

25 MR. MURRAY: No, sir.

1 MR. STROUD: Do you know any of their attorneys?

2 MR. MURRAY: No, sir.

3 MR. STROUD: Did you recognize any of the names of
4 witnesses who might appear for the defendants whose names I
5 called out?

6 MR. MURRAY: No, sir.

7 MR. STROUD: How about the names of the witnesses
8 who might appear for the State of North Carolina, did you know
9 any of them?

10 MR. MURRAY: No, sir.

11 MR. STROUD: Do you have any personal knowledge as to
12 the events and incidents which occurred in Wilmington in February,
13 of 1971?

14 MR. MURRAY: No, sir.

15 MR. STROUD: Do you recall hearing or reading about
16 those events?

17 MR. MURRAY: Well, newspaper reports and some talk on
18 the job.

19 MR. STROUD: Do you recall what you read with regard
20 to these events in the newspapers?

21 MR. MURRAY: No, sir, not as to any details.

22 MR. STROUD: Do you recall reading anything about the
23 burning of Mike's Grocery Store, in Wilmington?

24 MR. MURRAY: No, sir.

25 MR. STROUD: Do you recall the personal conversation

1 you had with regard to the incidents in Wilmington in February,
2 of 1971?

3 MR. MURRAY: No, sir.

4 MR. STROUD: Have you at this time or have you at any
5 time formed an opinion as to the guilt or innocence of the
6 defendants in these cases?

7 MR. MURRAY: No, sir.

8 MR. STROUD: Would your decision should you serve on
9 the jury, would your decision in any way be influenced by the
10 fact that the defendants are negro?

11 MR. MURRAY: No, sir.

12 MR. STROUD: Would your decision be influenced by the
13 fact that they are young in age?

14 MR. MURRAY: No, sir.

15 MR. STROUD: Are you aware of any factor or feeling
16 at this time in regard to these defendants or these cases that
17 might tend to influence your decision with regard to these
18 cases?

19 MR. MURRAY: They deserve a fair trial.

20 MR. STROUD: Well, are you aware of any feeling on
21 your part or any factor other than the evidence that you will
22 hear and the charge of the Court and the arguments of counsel,
23 would there be anything other than those factors which would
24 tend to influence your decision?

25 MR. MURRAY: No, sir.

1 MR. STROUD: Do you feel that you would serve as a
2 fair juror in this case, fair both to the State and to the
3 Defendants?

4 MR. MURRAY: Yes, sir.

5 MR. STROUD: Do you have any personal interest or
6 desire as to the outcome of these cases?

7 MR. MURRAY: No, sir.

8 MR. STROUD: If the state should prove to you beyond
9 a reasonable doubt, Mr. Murray, that each of these defendants
10 was involved and participated in the planning and conspiring
11 to burn Mike's Grocery Store, in Wilmington, North Carolina,
12 with incendiary devices, and further, planned and conspired to
13 assault emergency personnel, police officers and firemen, with
14 deadly weapons, would you find them guilty as charged?

15 MR. MURRAY: Yes, sir.

16 MR. STROUD: If the state should further prove to you
17 by its evidence and beyond a reasonable doubt that each of
18 these defendants with the exception of the defendants Shepard
19 and Kirby was involved in the burning of Mike's Grocery Store
20 with incendiary devices, will you find them guilty as charged?

21 MR. MURRAY: Yes, sir.

22 MR. STROUD: Thank you. Mrs. Graham, how old are
23 your children, please, ma'am?

24 MRS. GRAHAM: Their ages are 25, 23.... (REPORTER
25 CANNOT HEAR THE ANSWER).

1
2 please?

MR. STROUD: Would you repeat all of their ages again,
MRS. GRAHAM: 25, 23, 21, and 19.

4 MR. STROUD: And all of them live away from home?

5 MRS. GRAHAM: All except one; my oldest one lives away
6 at home, lives right near me.

7 MR. STROUD: Thank you, ma'am. The state will excuse
8 you.

9 CLERK: Hubert Wells. (NO RESPONSE.)

10 THE COURT: Mr. Hubert Wells was excused by the Court
11 until in the morning.

12 CLERK: Fletcher McClure Murray (WHITE).

13 MR. STROUD: Mr. Murray, are you presently a member
14 of Pender County?

15 MR. MURRAY: Yes, sir.

16 MR. STROUD: How long have you been a resident, please,
17 sir?

18 MR. MURRAY: All my life.

19 MR. STROUD: What is your occupation, please, sir?

20 MR. MURRAY: Machine operator with the Highway
21 Commission.

22 MR. STROUD: And are you married, sir?

23 MR. MURRAY: Yes, sir.

24 MR. STROUD: Mr. Murray, were you able and did you
25 hear my preliminary statements and the statements I have been

1 making throughout the day with regard to the charges against
2 the defendants?

3 MR. MURRAY: Yes, sir.

4 MR. STROUD: And are you familiar with those; do you
5 understand those charges as I have tried to relate them to the
6 jury?

7 MR. MURRAY: Yes, sir.

8 MR. STROUD: Do you know any of the defendants or
9 recognize them?

10 MR. MURRAY: No, sir.

11 MR. STROUD: Do you know any of their attorneys?

12 MR. MURRAY: No, sir.

13 MR. STROUD: Do you recall my reading the list of
14 names of witnesses who might appear for the defendants?

15 MR. MURRAY: Yes, sir.

16 MR. STROUD: Do you know any of those?

17 MR. MURRAY: No, sir.

18 MR. STROUD: Do you recall my reading the list of
19 names of witnesses who might appear for the state?

20 MR. MURRAY: Yes, sir.

21 MR. STROUD: Did you know any of them?

22 MR. MURRAY: No, sir.

23 MR. STROUD: Are you aware of any factor, Mr. Murray,
24 which would cause you to be influenced with regard to the
25 verdict in this case other than the evidence and the charge of

1 the Court and the arguments of counsel?

2 MR. MURRAY: No, sir.

3 MR. STROUD: Do you feel like you could serve as a
4 fair juror, fair both to the State of North Carolina and to the
5 Defendants?

6 MR. MURRAY: Yes, sir.

7 MR. STROUD: Would the fact that the defendants are
8 negro in any way influence your decision?

9 MR. MURRAY: I don't think so.

10 MR. STROUD: Or the fact that they are young in age
11 influence your decision in any way?

12 MR. MURRAY: No, sir.

13 MR. STROUD: Do you have any personal knowledge of
14 the events or incidents that took place in Wilmington in February,
15 of 1971?

16 MR. MURRAY: Reading about it and on television.

17 MR. STROUD: Reading and hearing about it?

18 MR. MURRAY: Yes, sir.

19 MR. STROUD: Can you recall at this time without
20 repeating it, can you recall at this time what, if anything,
21 you read or heard about it.

22 MR. MURRAY: No. I can't recall it.

23 MR. STROUD: You cannot recall anything you read or
24 heard about it?

25 MR. MURRAY: No, sir.

1 MR. STROUD: Have you at any time formed an opinion
2 as to the guilt or innocence of the defendants in this case?

3 MR. MURRAY: To start with I did have, to be fair
4 about it.

5 MR. STROUD: Pardon?

6 MR. MURRAY: To start with I did have, to be fair.

7 MR. STROUD: Do you now have an opinion as to their
8 guilt or innocence?

9 MR. MURRAY: I couldn't really say about it now.

10 MR. STROUD: You are not sure whether or not you have
11 formed an opinion?

12 MR. MURRAY: Well, I did then.

13 MR. STROUD: I'm talking about now. Do you have an
14 opinion now?

15 MR. MURRAY: No, I don't right now.

16 MR. STROUD: You don't. Do you feel like you will be
17 open minded about the matter, sir?

18 MR. MURRAY: If I served on the jury I would be.

19 MR. STROUD: Would you base your decision of guilt
20 or innocence on any factor other than the evidence that comes
21 from the witness stand and the arguments of counsel and the
22 charge of the Court?

23 MR. MURRAY: Yes, sir.

24 MR. STROUD: You would or would not?

25 MR. MURRAY: Repeat that.

1 MR. STROUD: Would you base your decision of guilt
2 or innocence upon any factor other than the evidence and the
3 charge of the Court and the arguments of counsel?

4 MR. MURRAY: No, sir.

5 MR. STROUD: Mr. Randolph James, I believe the State
6 will excuse you, please, sir. Thank you.

7 CLERK: Berlene R. Boney (WHITE).

8 MR. STROUD: Is it Miss or Mrs. Boney?

9 MRS. BONEY: Mrs.

10 MR. STROUD: Mrs. Boney, are you presently a resident
11 of Pender County?

12 MRS. BONEY: Yes, sir.

13 MR. STROUD: Do you -- How long have you been a
14 resident, please?

15 MRS. BONEY: All my life.

16 MR. STROUD: And what is your husband's occupation?

17 MRS. BONEY: Construction Foreman, in Wilmington.

18 MR. STROUD: Will you repeat that, please, ma'am?

19 MRS. BONEY: Construction Foreman, in Wilmington.

20 MR. STROUD: And are you employed outside the home
21 at all, ma'am?

22 MRS. BONEY: (INDICATES NEGATIVE.)

23 MR. STROUD: Do you have children at home?

24 MRS. BONEY: Two.

25 MR. STROUD: What are their ages, please, ma'am?

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MRS. BONEY: Nine and eleven.

MR. STROUD: Have you been able to hear my statements with regard to the charges for which the defendants stand trial at this time?

MRS. BONEY: Yes.

MR. STROUD: And do you understand those charges as I have related them?

MRS. BONEY: Yes.

MR. STROUD: Do you know any of the defendants that stand charged and stand on trial at this time?

MRS. BONEY: No.

MR. STROUD: Do you recognize any of them?

MRS. BONEY: No.

MR. STROUD: Do you feel like you might know any of the members of their families?

MRS. BONEY: No.

MR. STROUD: Do you know any of the attorneys for the defendants?

MRS. BONEY: No.

MR. STROUD: Do you recall my reading the list of names of witnesses who might appear for the defendants in this trial?

MRS. BONEY: Do I recall?

MR. STROUD: Do you recall my reading that list of names?

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MRS. BONEY: Yes.

MR. STROUD: Did you recognize any of the names?

MRS. BONEY: No.

MR. STROUD: Do you recall my reading a list of names of witnesses who probably will appear as witnesses for the State of North Carolina in this matter?

MRS. BONEY: Yes..

MR. STROUD: And did you recognize any of those names?

MRS. BONEY: No.

MR. STROUD: Do you have any personal knowledge as to the events and incidents which occurred in February, 1971, in Wilmington?

MRS. BONEY: Only what I read in the paper and saw on television.

MR. STROUD: As a result of what you -- Can you recall what you read in the paper or heard on television in regard to those events?

MRS. BONEY: Not much.

MR. STROUD: Can you recall or have you heard or read anything about the burning of Mike's Grocery Store, in Wilmington on Sixth Street?

MRS. BONEY: I remember reading about it.

MR. STROUD: Do you recall what you read about it?

MRS. BONEY: (NO ANSWER HEARD.)

MR. STROUD: Have you at any time had -- What was your

1 answer? What was your last answer, please?

2 MRS. BONEY: What was the question?

3 MR. STROUD: I believe the question was: Do you
4 recall what you heard about the burning of Mike's Grocery Store?

5 MRS. BONEY: No.

6 MR. STROUD: Have you had any discussions or conversa-
7 tions or heard any comments with regard to the burning of Mike's
8 Grocery Store in February, of 1971?

9 MRS. BONEY: No.

10 MR. STROUD: Do you know of any factor that would tend
11 to influence your decision in this case other than the evidence
12 that you will hear and the arguments of the lawyers and the
13 charge of the Court; is there any other factor that might tend
14 to influence your decision in the case?

15 MRS. BONEY: No.

16 MR. STROUD: Would the fact that the defendants are
17 negroes in any way influence your decision?

18 MRS. BONEY: No.

19 MR. STROUD: Would the fact that they are young in
20 age in any way influence your decision?

21 MRS. BONEY: No.

22 MR. STROUD: Do you feel that you would serve as a
23 fair juror, fair both to the State of North Carolina and to the
24 Defendants?

25 MRS. BONEY: Yes.

1 MR. STROUD: Have you formed as a result of what you
2 have read and heard and as a result of what part of it you can
3 recall, have you formed an opinion as to the guilt or innocence
4 of the defendants?

5 MRS. BONEY: Well, I did when I first read it, but it
6 has been so long I don't have an opinion now.

7 MR. STROUD: You don't have an opinion now?

8 MRS. BONEY: No, sir.

9 MR. STROUD: And do you feel that you will render
10 your decision - should you serve on the jury that you will
11 render your decision based upon the evidence that is presented
12 here and the arguments of counsel and the charge of the Court
13 without any other factor influencing your decision?

14 MRS. BONEY: (INDICATES AFFIRMATIVE.)

15 MR. STROUD: If it please the Court, the state is
16 satisfied.

17 THE COURT: Will you gentlemen agree which proceeds
18 next?

19 MR. HUNOVAL: Yes, sir, your Honor. I believe I go
20 first. I would like to excuse Mr. Eakins. I would also like
21 to excuse Mrs. Sidbury. Thank you very much.

22 CLERK: Adline Mae Walker (BLACK). Mazie Bowen
23 Wooten (WHITE).

24 MR. HUNOVAL: Ladies and gentlemen of the jury, my
25 name is Matt Hunoval. I am/from Wilmington; and I am a partner

1 in the law firm of McLellan, Durham and Hunoval.

2 I represent Ann Shepard who is charged with two offenses which

3 you have heard the solicitor mention, and I am going to ask you

4 all a few questions, and I would like for you to bear with me.

5 I would like to ask you all first of all whether any member of

6 the jury as it is now constituted has ever received any communi-

7 cation from either myself, my partner Colonel McLellan, or my

8 partner Pender Durham, which might have put you in an antagonistic

9 frame of mind. In other words, did we ever sue you; did anyone

10 in my firm ever sue you, write you a nasty letter, or stuff like

11 that, that you know of? (NO RESPONSE.) And no one knows me at

12 all, is that correct? If anyone does know me, please raise

13 your hand. (NO RESPONSE.) Is it Mrs. Walker, is that correct?

14 MRS. WALKER: Mrs.

15 MR. HUNOVAL: Mrs. Walker, are you a life-long resident

16 of Pender County as well?

17 MRS. WALKER: Yes.

18 MR. HUNOVAL: How long have you lived in Pender County?

19 MRS. WALKER: All my life.

20 MR. HUNOVAL: All your life. And could you please

21 tell me what your marital status is? Are you married, or are

22 you a widow.....

23 MRS. WALKER: Yes.

24 MR. HUNOVAL: Married. Do you have any children?

25 MRS. WALKER: Three children.

1 MR. HUNOVAL: Three children. Do they live in the
2 home with you?

3 MRS. WALKER: Two in the home.

4 MR. HUNOVAL: Where does your husband work?

5 MRS. WALKER: Pender Factories.

6 MR. HUNOVAL: Are you a housewife or.....

7 MRS. WALKER: At the present I am.

8 MR. HUNOVAL: You are a housewife. And do you under-
9 stand, Mrs. Walker, that I represent Mrs. Shepard here; you
10 understand that, don't you?

11 MRS. WALKER: Yes, sir.

12 MR. HUNOVAL: And you understand, I think, that I
13 represent none of the other defendants in this case, do you
14 understand that?

15 MRS. WALKER: Yes, sir.

16 MR. HUNOVAL: Do you understand that my client, Ann
17 Shepard, was charged with solely two offenses, you understand
18 that?

19 MRS. WALKER: Yes, sir.

20 MR. HUNOVAL: Do you know which two offenses they are?

21 MRS. WALKER: No, sir.

22 MR. HUNOVAL: Okay. My client, Mrs. Walker, is
23 charged with conspiring along with some of these other defen-
24 dants who also have been charged to assault law enforcement
25 officers and/or firemen by the use of dangerous weapons in

1 Wilmington on the 5th or 6th of February, 1971; do you understand 157

2 that that is one of the charges?

3 MRS. WALKER: Yes, sir.

4 MR. HUNOVAL: Do you understand that the other charge
5 is for conspiring to burn a certain building called Mike's
6 Grocery Store also on these same dates; do you understand that?

7 MRS. WALKER: Yes, sir.

8 MR. HUNOVAL: Do you understand clearly that my only
9 interest in this whole case is to represent Mrs. Shepard and
10 nobody else?

11 MRS. WALKER: Yes, sir.

12 MR. HUNOVAL: Okay. Do you have any personal interest
13 in this action at all brought by the State of North Carolina?

14 MRS. WALKER: No, sir.

15 MR. HUNOVAL: Have you formulated an opinion as to
16 the guilt or innocence of my client?

17 MRS. WALKER: No, sir.

18 MR. HUNOVAL: Do you think you can render a fair and
19 impartial verdict not only for the State of North Carolina but
20 also for my client?

21 MRS. WALKER: Yes, sir.

22 MR. HUNOVAL: Is it Mrs. Wooten; is that.....

23 MRS. WOOTEN: Yes, sir.

24 MR. HUNOVAL: Are you married, Mrs. Wooten?

25 MRS. WOOTEN: I am a widow.

1 MR. HUNOVAL: You are a widow also. How long have you 158.
2 lived here in Pender County?

3 MRS. WOOTEN: About twenty-four years.

4 MR. HUNOVAL: Do you have any children?

5 MRS. WOOTEN: I have one at home.

6 MR. HUNOVAL: Is he or is she living in the home?

7 MRS. WOOTEN: Yes, sir.

8 MR. HUNOVAL: Are you a housewife or are you.....

9 MRS. WOOTEN: No. I am employed here in Burgaw at
10 Harrell (PHONETIC) Drug Store.

11 MR. HUNOVAL: I see. Have you made up your mind;
12 have you formulated any opinion as to the guilt or innocence
13 of my client?

14 MRS. WOOTEN: No, sir.

15 MR. HUNOVAL: Do you feel as though you can render
16 a fair and impartial verdict in this case based on the evidence,
17 based on the summation of counsel, and based on the charge of
18 the Judge, and on no other foundation?

19 MRS. WOOTEN: Yes, sir.

20 MR. HUNOVAL: If anyone on the jury as it is now
21 constituted has ever served in a civil action, would you please
22 raise your hand. (ONE RESPONSE.)/ I take that to mean that no
23 one on the jury as it is now constituted has ever served on a
24 civil action except for Mr. Murray. Mr. Murray, you understand
25 that in a criminal action the burden of going forward, the

1 burden of proof, rests with the State of North Carolina; you
2 understand that, do you?

3 MR. MURRAY: Yes, sir.

4 MR. HUNOVAL: Do you understand as well in a civil
5 action the standard of proof is by the greater weight of the
6 evidence; do you remember that?

7 MR. MURRAY: Yes, sir.

8 MR. HUNOVAL: Do you understand that in a criminal
9 action - and this is a criminal action - the standard that the
10 State of North Carolina is burdened with is the standard of
11 proving beyond a reasonable doubt; you understand that?

12 MR. MURRAY: Yes, sir.

13 MR. HUNOVAL: Do you understand that the standard of
14 beyond a reasonable doubt is a higher standard and puts on the
15 State of North Carolina a greater burden than would be on
16 litigants in a civil action; you understand that?

17 MR. MURRAY: Yes, sir.

18 MR. HUNOVAL: Okay. Thank you. Mr. Murray, are you
19 related to the gentleman sitting right next to you?

20 MR. MURRAY: Probably fifth or sixth cousins.

21 MR. HUNOVAL: I see. Do you believe that his presence
22 on the jury would influence your decision either for the State
23 of North Carolina or for the defendant Ann Shepard?

24 MR. MURRAY: No, sir. We are not close enough.

25 MR. HUNOVAL: You can make up your own mind regardless

1 of whether he is there or not?

2 MR. MURRAY: Yes, sir.

3 MR. HUNOVAL: Mr. Murray, I believe you said you are
4 a machine operator for the State Highway Department, is that
5 correct?

6 MR. MURRAY: That's right.

7 MR. HUNOVAL: Is there anyone else on the jury who is
8 directly employed by the State of North Carolina in any capacity
9 whatsoever? (NO RESPONSE.) Is there anyone on the jury as it
10 is now constituted who has a family, a blood or family relative,
11 employed by the State of North Carolina?

12 MRS. ALFORD: I have a brother.

13 MR. HUNOVAL: You have a brother?

14 MRS. ALFORD: Yes, sir.

15 MR. HUNOVAL: And your brother, Mrs Alford, is employed
16 by whom? Or, in what capacity; I am sorry.

17 MRS. ALFORD: He works in the garage, the school
18 garage, in Jacksonville, North Carolina. He works on school
19 buses.

20 MR. HUNOVAL: I see. Do you feel his being on the
21 pay roll of the State of North Carolina would influence your
22 decision in this case?

23 MRS. ALFORD: No, sir.

24 MR. HUNOVAL: You don't think so; okay. Is there
25 anyone on the jury as it is now constituted who has a blood or

1 marital or relative by virtue of a marriage who is or has been 161
2 a police officer or a fireman in the State of North Carolina?

3 THE COURT: Mr. Hunoval, did you intend that question
4 to include any and all kinds of law enforcement officers?

5 MR. HUNOVAL: Yes, sir, I think I did.

6 THE COURT: Perhaps you should rephrase that.

7 MR. HUNOVAL: Okay. Let's say: Is there anyone, any
8 member of the jury, who has in their family either by blood or
9 by marriage a relative of theirs who is a member of some law
10 enforcement agency here in the State of North Carolina?

11 MRS. WOOTEN: I have a son-in-law who is a highway
12 patrolman.

13 MR. HUNOVAL: Highway Patrol?

14 MRS. WOOTEN: Yes, sir.

15 MR. HUNOVAL: And your son-in-law is with the Highway
16 Patrol where?

17 MRS. WOOTEN: In Lumberton, North Carolina.

18 MR. HUNOVAL: In Lumberton, North Carolina. Do you
19 recall whether or not your son-in-law ever commented to you
20 about these alleged incidents down in Wilmington at or around
21 February, 1971?

22 MRS. WOOTEN: No, sir.

23 MR. HUNOVAL: He never did. Did he ever have occasion
24 to the best of your personal knowledge to go to Wilmington dur-
25 ing the disorders that they did have down there?

1 MRS. WOOTEN: Not in Wilmington.

2 MR. HUNOVAL: Not in Wilmington. I see. Do you think
3 with the obvious knowledge that your son (SIC) is directly
4 involved in law enforcement in North Carolina, do you still
5 feel that you could remain objective and decide this case
6 solely on the evidence, the summation, and the charge that you
7 hear during the course of this trial?

8 MRS. WOOTEN: Yes, sir.

9 MR. HUNOVAL: You don't think his being a law enforce-
10 ment officer would prejudice the interest of Ann Shepard?

11 MRS. WOOTEN: No.

12 MR. HUNOVAL: Mr. Fletcher Murray. Mr. Murray, I
13 believe that you stated when you were examined by the solicitor
14 that you had had an opinion at some point prior to today?

15 MR. MURRAY: That is correct.

16 MR. HUNOVAL: But now do not have an opinion as to
17 the guilt or innocence?

18 MR. MURRAY: At the time that I read it, I did have
19 an opinion.

20 MR. HUNOVAL: So, in other words, what you are basing
21 your opinion on were newspaper accounts.....

22 MR. MURRAY: Yes, and T.V. accounts.

23 MR. HUNOVAL:and T.V. accounts? Well, could
24 you repeat that answer again, please?

25 MR. MURRAY: Repeat your question.

1 MR. HUNOVAL: I believe - correct me if I'm wrong - I
2 believe that I asked whether your opinion was founded solely on
3 the basis of newspaper and television accounts?

4 MR. MURRAY: On newspaper and television accounts.

5 MR. HUNOVAL: And since that opinion was formulated at
6 some point after these transactions took place, what led you to
7 believe - strike the last part of that question - what led you
8 to change your opinion as to the guilt or innocence of the people
9 charged here today?

10 MR. MURRAY: I forgot about it now, what I heard;
11 because I don't remember what I heard or what I read now.

12 MR. HUNOVAL: I see. And you don't believe that at
13 this particular time you have subconsciously or consciously or
14 any way be influenced by the earlier opinion that you formulated
15 as to the merits of this case based solely on television and
16 newspaper reports?

17 MR. MURRAY: Well, I don't really know whether I
18 could or not.

19 MR. HUNOVAL: You don't know whether you could be
20 impartial, is that what you are saying?

21 MR. MURRAY: Well, I might get by. I don't know.

22 MR. HUNOVAL: Your Honor, I believe I will challenge
23 him.

24 THE COURT: Very well. You may be excused.

25 MR. HUNOVAL: Thank you, Mr. Murray.

1 CLERK: Gladys Lee Worrell (WHITE).

2 MR. HUNOVAL: Was there someone else on the jury,
3 anyone else on the jury, who might possibly have had a relative
4 who was directly involved in law enforcement here in North
5 Carolina?

6 MR. EDENS: My second cousin is Chief of Police in
7 Surf City.

8 MR. HUNOVAL: Surf City; that's at Topsail Beach. Do
9 you have any idea whether the people up at Surf City, your
10 police department up there, was ever involved in Wilmington in
11 February, of '71?

12 MR. EDENS: No, sir.

13 MR. HUNOVAL: Have you ever talked to him about these
14 cases?

15 MR. EDENS: No, sir.

16 MR. HUNOVAL: Do you think that his being a police
17 officer up there will influence your decision one way or the
18 other?

19 MR. EDENS: No, sir.

20 MR. HUNOVAL: You don't; you think you could be
21 strictly impartial in this case?

22 MR. EDENS: Yes, sir.

23 MR. HUNOVAL: Mrs. Worrell, have you heard everything
24 that the solicitor has said earlier today?

25 MRS. WORRELL: Yes, sir.

1 MR. HUNOVAL: Now, - and you know, Mrs. Worrell, that
2 I represent one person here, is that correct, Mrs. Shepard; I
3 do not represent anyone else in this trial, you understand that,
4 don't you?

5 MRS. WORRELL: Yes, sir.

6 MR. HUNOVAL: Could you please tell us what your
7 marital status is?

8 MRS. WORRELL: I have a disabled husband, and I have
9 five children, and I am a housewife.

10 MR. HUNOVAL: Okay. Are you employed as a housewife
11 or are you the breadwinner?

12 MRS. WORRELL: I am a housewife.

13 MR. HUNOVAL: As a housewife. Mrs. Worrell, you
14 understand that my client is charged with only two offenses
15 here, you understand that?

16 MRS. WORRELL: Yes.

17 MR. HUNOVAL: And you understand that those charges
18 are conspiracy charges, you understand that?

19 MRS. WORRELL: Yes.

20 MR. HUNOVAL: You understand that my client has never
21 been charged with the perpetration of any act, you understand
22 that?

23 MRS. WORRELL: Yes, sir.

24 MR. HUNOVAL: The only thing she is charged with here
25 are two counts of conspiracy: to burn said place and to assault
~~certain people by use of a dangerous weapon, you understand that?~~

1 MRS. WORRELL: Yes, sir.

2 MR. HUNOVAL: Do you believe that you could give a
3 fair and impartial verdict in this case?

4 MRS. WORRELL: Yes, sir.

5 MR. HUNOVAL: Do you believe that the decision that
6 you ultimately make in this case will be based solely on what
7 you hear in this court room through the testimony that's elicited
8 up at the stand, through the summation of counsel, and through
9 the charge of the Judge?

10 MRS. WORRELL: Yes, sir.

11 MR. HUNOVAL: And nothing else?

12 MRS. WORRELL: Yes, sir.

13 MR. HUNOVAL: And you don't think that you have been
14 - and I assume that you have read paper accounts and seen T.V.
15 reports on this thing, and you don't believe that this would
16 adversely - strike adversely - affect your decision one way or
17 the other, do you?

18 MRS. WORRELL: I certainly do not.

19 MR. HUNOVAL: Do you have anybody in your immediate
20 family who is directly employed by the State of North Carolina
21 in any capacity?

22 MRS. WORRELL: I have a brother that works with the
23 Highway Department in Kinston.

24 MR. HUNOVAL: I see. But he is not involved in law
25 enforcement, is that correct?

1 MRS. WORRELL: No, sir. He works with the parks there.

2 MR. HUNOVAL: I see. And have you communicated with
3 him about this particular trial?

4 MRS. WORRELL: No, sir. I haven't even seen him since
5 October, I believe.

6 MR. HUNOVAL: Okay. Mrs. Boney, I believe earlier you
7 stated - made a statement very similar to what Mr. Fletcher
8 Murray said about the formulation of an opinion as to the
9 ultimate question we are here to decide during this trial, and
10 that was the guilt or innocence of this defendant or some defen-
11 dant prior to the date of this trial, is that correct?

12 MRS. BONEY: Yes, sir.

13 MR. HUNOVAL: But you feel that since that time you
14 have no opinion, is that right?

15 MRS. BONEY: No. I did have an opinion, but I have
16 forgotten what I read now.

17 MR. HUNOVAL: I'm sorry.

18 MRS. BONEY: I don't have an opinion now. I have
19 forgotten what I read then.

20 MR. HUNOVAL: I see. Do you believe - strike that.
21 Mrs. Boney, can you give us any explanation for your present
22 state of mind having gone from a position of an opinion to a
23 position of no opinion; can you tell us?

24 MRS. BONEY: I don't know anything about it since it
25 happened.

1 MR. HUNOVAL: But can you recall to the best of your
2 present personal knowledge when you formulated your opinion as
3 to the guilt or innocence of Mrs. Shepard or anyone else here?

4 MRS. BONEY: When it happened and when I read it in
5 the paper.

6 MR. HUNOVAL: When it happened; and you do not have
7 to state what opinion you did formulate at that time, but was
8 it an opinion that affected Ann Shepard one way or the other;
9 do you remember?

10 MRS. BONEY: I don't remember.

11 THE COURT: Gentlemen, approach the bench just a
12 minute.

13 (ALL COUNSEL CONFER WITH THE COURT AT THE BENCH.)

14 THE COURT: We will take a brief recess at this point.

15 (AFTERNOON BREAK.)

16 THE COURT: You may proceed.

17 MR. HUNOVAL: Ladies and gentlemen of the jury, before
18 I get back to Mrs. Boney I would like to ask one other question.
19 Is anyone on the jury as it is now constituted who is now or
20 has been personally a law enforcement officer or involved in
21 law enforcement in any capacity, now or in the past, either
22 State or Federal? (NO RESPONSE.) How about firemen; is there
23 anyone on the jury/who has been or is a fireman? (NO RESPONSE.)

24 Okay. Thank you. Mrs. Boney, have you ever formulated the
25 opinion that my client, Mrs. Shepard, was guilty of the two

1 offenses she is presently charged with or any other offenses
2 arising out of what took place in February, of 1971?

3 MRS. BONEY: No, sir.

4 MR. HUNOVAL: You have never formulated that opinion?

5 MRS. BONEY: No, sir.

6 MR. HUNOVAL: And you don't have that opinion now?

7 MRS. BONEY: No, sir.

8 THE COURT: Speak out so the Court can hear you.

9 MRS. BONEY: No, sir.

10 MR. HUNOVAL: Mr. Thompson, you are a Maintenance
11 Supervisor with the Housing Authority, is that right?

12 MR. THOMPSON: Not supervisor. Just Maintenance
13 Department.

14 MR. HUNOVAL: Maintenance Department?

15 MR. THOMPSON: That's right.

16 MR. HUNOVAL: And the Housing Authority, is that a
17 State or State and Federal program?

18 MR. THOMPSON: Well, it's run by Eastern Carolina
19 Housing Authority./ That's where we get our checks from.
20 I don't think the State has too much to do
21 with it, or the government either. It's just a non-profit
22 organization.

23 MR. HUNOVAL: And what does this Housing Authority
24 do; what is the function of the Housing Authority?

25 MR. THOMPSON: Well, we have apartments to rent out,
either to service people or civilians, both colored and white,

1 and we keep the buildings up and revise them and things of that 170
2 nature.

3 MR. HUNOVAL: I see. And the particular area in which
4 you work is the Housing Authority in Pender County?

5 MR. THOMPSON: It's in Onslow.

6 MR. HUNOVAL: Onslow, so you commute from Pender to
7 Onslow?

8 MR. THOMPSON: I live in Pender and I go to work in
9 Onslow County. It's in Holly Ridge.

10 MR. HUNOVAL: In Holly Ridge in Onslow County?

11 MR. THOMPSON: Yes, sir, the Housing Authority at
12 Holly Ridge.

13 MR. HUNOVAL: And you work in a housing project in
14 Onslow County?

15 MR. THOMPSON: Yes, sir.

16 MR. HUNOVAL: And in that housing complex there are
17 both black people and white people, is that correct?

18 MR. THOMPSON: Oh, yes, sir.

19 MR. HUNOVAL: When being examined by Mr. Stroud, I
20 believe that you mentioned that you had not discussed this case
21 or any of the charges arising out of this case with any person
22 to the best of your knowledge, is that what you said when Mr.
23 Stroud asked you that question? (NO RESPONSE.) Maybe I should
24 rephrase that question, Mr. Thompson. Did you say in response
25 to a question by Mr. Stroud that you had not discussed this case

1 with any person, quote, to your knowledge?

2 MR. THOMPSON: No, sir.

3 MR. HUNOVAL: You didn't say that?

4 MR. THOMPSON: Well, if I discussed it with anyone it
5 wasn't anything, just that we did not have any trouble or some-
6 thing like that.

7 MR. HUNOVAL: I see. When you discussed this, if you
8 did discuss it, you never expressed an opinion as to the guilt
9 or innocence of my client, is that correct?

10 MR. THOMPSON: No, sir. I always have to look at
11 both sides before I make an opinion.

12 MR. HUNOVAL: And you are prepared during the course
13 of this trial to not only look at the state's side and give
14 them every benefit of the doubt but also look at the defendant's
15 side, Mrs. Shepard, and give her every reasonable doubt and
16 reasonable consideration and let her have an opportunity to be
17 heard?

18 MR. THOMPSON: That's correct.

19 MR. HUNOVAL: Mr. Rivenbark, I believe that you said
20 that you were working in Wilmington during February, of 1971,
21 is that correct?

22 MR. RIVENBARK: That is correct.

23 MR. HUNOVAL: And you were working somewheres in the
24 vicinity of South Fifth Street, in Wilmington?

25 MR. RIVENBARK: Yes, sir.

1 MR. HUNOVAL: Were you also living in Wilmington or
2 were you commuting from Pender County?

3 MR. RIVENBARK: I was commuting.

4 MR. HUNOVAL: You were commuting. And would you go
5 to Wilmington in the morning and come back in the evening?

6 MR. RIVENBARK: That's correct.

7 MR. HUNOVAL: When did you go to Wilmington in the
8 morning?

9 MR. RIVENBARK: Oh, probably quarter to seven.

10 MR. HUNOVAL: And you would return at approximately
11 what time?

12 MR. RIVENBARK: You mean, to home?

13 MR. HUNOVAL: Yes, sir.

14 MR. RIVENBARK: Approximately quarter after six,
15 depending.

16 MR. HUNOVAL: I see. And during this period which
17 was four or five months, did you say that you worked down there
18 in Wilmington?

19 MR. THOMPSON: I've been working in Wilmington but
20 not all on the same job for three years and four months.

21 MR. HUNOVAL: So you are still commuting back and
22 forth to Wilmington?

23 MR. THOMPSON: That's correct.

24 MR. HUNOVAL: To South Fifth Street?

25 MR. THOMPSON: Yes, sir.

1 MR. HUNOVAL: And do you subscribe to the Wilmington
2 paper, the Wilmington Star News?

3 MR. THOMPSON: I do not.

4 MR. HUNOVAL: You do not. You subscribe to a Pender
5 County paper or the News and Observer?

6 MR. THOMPSON: The only paper we get, we get the
7 Wallace Enterprise newspaper.

8 MR. HUNOVAL: Okay. One of the questions that Mr.
9 Stroud asked most of the defendants - correction - most of the
10 jurors was whether or not they had view that was prejudicial
11 to the interest of the State of North Carolina. Now, Mr.
12 Rivenbark, I believe that question was asked of you, and you
13 said no, you did not. Do you feel as though you have any
14 interest - strike that - any views which might be prejudicial
15 to my client, Mrs. Ann Shepard?

16 MR. RIVENBARK: I don't think so.

17 MR. HUNOVAL: You don't think so, but you could have?

18 MR. RIVENBARK: I possibly could.

19 MR. HUNOVAL: Mr. Rivenbark, with the views that you
20 could have that might be prejudicial to my client, Mrs. Shepard,
21 could they be views resulting from the charges that have been
22 aired in the different medias that have focused their attention
23 on this trial?

24 MR. RIVENBARK: I don't know as I fully understand
25 the question.

1 MR. HUNOVAL: Okay. The views that you might have,
2 Mr. Rivenbark, that could be prejudicial to the interest of
3 Mrs. Shepard, were they as a result of newspaper accounts and
4 television accounts of these transactions in February, of 1971?

5 MR. RIVENBARK: I would think so, yes. The only
6 thing that I've got - I mean, where I work at it's discussed
7 rather frequently, and I'd say it's about 60 per cent black that
8 work there, and it is discussed frequently there, and I'd say
9 about 40 per cent white possibly.

10 MR. HUNOVAL: And have you personally, Mr. Rivenbark,
11 entered into some of these discussions about it?

12 MR. RIVENBARK: Well, I've been in some of them. I
13 mean, I've heard some of them.

14 MR. HUNOVAL: Have people at the place where you work
15 or where you live, have people expressed to you an opinion as
16 to whether or not they felt that my client was guilty or inno-
17 cent; has anyone told you their feelings as to whether or not
18 they felt that my client was guilty or innocent?

19 MR. RIVENBARK: I don't think the discussion went
20 that deep, no, sir.

21 MR. HUNOVAL: Have you ever expressed an opinion, Mr.
22 Rivenbark, to any person at work or at any other place as to
23 the guilt or innocence of my client, Ann Shepard?

24 MR. RIVENBARK: You mean, have I discussed it?

25 MR. HUNOVAL: Have you discussed the ultimate issue,

1 the guilt or innocence, of Mrs. Ann Shepard?

2 MR. RIVENBARK: I have not discussed it, as far as
3 myself.

4 MR. HUNOVAL: But this - the subject of the guilt or
5 innocence of some of the people if not all these people have
6 been discussed in your presence?

7 MR. RIVENBARK: That's right.

8 MR. HUNOVAL: Now, recognizing that you have earlier
9 stated that you could possibly be prejudiced against my client,
10 do you feel as though you still in all integrity sit on this
11 jury?

12 THE COURT: Mr. Hunoval, the Court did not understand
13 Mr. Rivenbark to express that feeling that he possibly could
14 have. Possibly he did not understand.

15 MR. HUNOVAL: Suppose we let Mr. Rivenbark -- Did you
16 state you could be prejudiced against my client earlier?

17 MR. RIVENBARK: I believe I said that, yes, sir.

18 MR. HUNOVAL: I thought so, your Honor. Do you still
19 think with that in mind, do you still think you could render a
20 fair and impartial judgment in this case or had you rather
21 request the Judge to excuse you?

22 MR. RIVENBARK: Well, I would like to be excused,
23 because I have heard a lot about it and I think it is the only
24 reasonable course, and I don't think it would be fair to sit.

25 MR. HUNOVAL: All right. Thank you, Mr. Rivenbark.

1 THE COURT: Mr. Rivenbark, I want to clearly under-
2 stand you. Are you saying that by reason of your discussions,
3 where you were, or otherwise, that you would prefer not be
4 selected as a member of the jury for fear you might not be able
5 to base your verdict solely upon the evidence presented here
6 but might be to some extent possibly prejudiced by reason of
7 what you have heard discussed in your presence?

8 MR. RIVENBARK: That is correct, your Honor.

9 THE COURT: You are not saying that simply because
10 you desire to get off and go back to your work?

11 MR. RIVENBARK: No, sir.

12 THE COURT: All right. You may be excused.

13 MR. STROUD: Your Honor, may we approach the bench
14 just for a second?

15 THE COURT: All right.

16 (COUNSEL CONFER WITH THE COURT AT THE BENCH.)

17 CLERK: Darrell Rooks (WHITE).

18 MR. HUNOVAL: Have you heard everything that has trans-
19 pired here today?

20 MR. ROOKS: Yes, sir.

21 MR. HUNOVAL: Do you know that my client is Ann
22 Shepard and she is the only one that I represent in this action,
23 you know that?

24 MR. ROOKS: Yes, sir.

25 MR. HUNOVAL: Can you think of any reason whatsoever

1 right off the top of the head that would prevent you from render- 17
2 ing a fair and impartial decision in this case based on the
3 evidence, based on the summation or the presentation of the
4 State of North Carolina and the Defendants, and the charge of
5 the jury (SIC)?

6 MR. ROOKS: No, sir.

7 MR. HUNOVAL: You don't?

8 MR. ROOKS: Not that I know of.

9 MR. HUNOVAL: All right. You have heard, and Mrs.
10 Worrell, I believe you have also heard the list of prospective
11 state's witnesses. Does anyone know any of those people, the
12 prospective state's witnesses?

13 MR. ROOKS: No, sir.

14 MR. HUNOVAL: Does anyone know any of the prospective
15 witnesses for the defense? (NO RESPONSE.) Does anyone on the
16 jury who has recently come on know any of the attorneys, the
17 solicitor, or any of the defendants here, including Ann Shepard?
18 (NO RESPONSE.) Mr. Rooks, have you heard my questions about
19 law enforcement personnel?

20 MR. ROOKS: Yes, sir.

21 MR. HUNOVAL: You know what I am trying to get at?

22 MR. ROOKS: Yes, sir.

23 MR. HUNOVAL: You are not a law enforcement officer
24 or anyone in your family, or fireman or anything along those
25 lines?

1 MR. ROOKS: No, sir.

2 MR. HUNOVAL: Mr. Rooks, are you married?

3 MR. ROOKS: Yes, sir.

4 MR. HUNOVAL: And do you have any children?

5 MR. ROOKS: No, sir.

6 MR. HUNOVAL: And with whom are you employed?

7 MR. ROOKS: I am a student at U.N.C.W., and I work
8 the second shift at Queensboro Steel.

9 MR. HUNOVAL: The second shift at Queensboro Steel.
10 And you live here in Pender County, is that right?

11 MR. ROOKS: I live in Atkinson, yes, sir.

12 MR. HUNOVAL: And how long have you been living here
13 in Pender County?

14 MR. ROOKS: Two years.

15 MR. HUNOVAL: Where are you from originally?

16 MR. ROOKS: Bladen County.

17 MR. HUNOVAL: You spend most of your time in Wilming-
18 ton?

19 MR. ROOKS: Yes, sir.

20 MR. HUNOVAL: You have read and heard newspaper
21 accounts of this - these incidents?

22 MR. ROOKS: I have read the headlines, but I haven't
23 studied it and all.

24 MR. HUNOVAL: Do you believe that you have formulated
25 an opinion as to the ultimate issue in this case, the guilt or

1 innocence of Ann Shepard?

2 MR. ROOKS: No, sir.

3 MR. HUNOVAL: You still think you have an open mind
4 in this case?

5 MR. ROOKS: Yes, sir.

6 MR. HUNOVAL: Do you know, Mr. Rooks, that my client
7 is not charged with the burning of Mike's Grocery?

8 MR. ROOKS: Yes, sir.

9 MR. HUNOVAL: You also know that my client is not and
10 has never been charged with that or assaulting emergency person-
11 nel, do you know that?

12 MR. ROOKS: Would you repeat that now?

13 MR. HUNOVAL: Do you realize also that my client, in
14 addition to never having been charged with the actual burning
15 of Mike's, she never has been charged and is not charged with
16 the actual assaulting of the emergency personnel?

17 MR. ROOKS: Yes, sir.

18 MR. HUNOVAL: You understand that she is just faced
19 with two conspiracy charges to which she plead guilty - not
20 guilty?

21 MR. ROOKS: Yes, sir.

22 MR. HUNOVAL: Mrs. Wooten, do you understand that my
23 client is charged with two felonies and that the State of North
24 Carolina must prove beyond a reasonable doubt that my client,
25 Mrs. Shepard, is guilty of those two felonies and every single

1 element of each felony which constitutes the offense, do you
2 understand that?

3 MRS. WOOTEN: Repeat that, please.

4 MR. HUNOVAL: Okay. Do you understand that the State
5 of North Carolina is burdened with the task of going forward
6 and proving beyond a reasonable doubt every single element of
7 each of these two individual charges as pertains to my client;
8 do you think you understand that?

9 MRS. WOOTEN: I'm not quite sure whether I get just
10 what you mean or not.

11 THE COURT: Mr. Hunoval, your question is stated in
12 the negative manner somewhat. Suppose you state it more posi-
13 tively. First state/what the offenses are and if there are certain
14 elements or will be certain elements instructions on that will
15 be given by the Court.

16 MR. HUNOVAL: I was thinking about waiting for the
17 charge before I told them what the elements were.

18 THE COURT: Well, sir, I do not believe it would be
19 appropriate at this time to go into those, but your question
20 was predicated upon that. The jury does not yet know what the
21 elements are.

22 MR. HUNOVAL: All right. Okay. Mrs. Wooten, do you
23 understand that the State of North Carolina must prove their
24 case against Ann Shepard and has the burden of going forward
25 and proving that case beyond any reasonable doubt that you have,

1 do you understand that?

2 MRS. WOOTEN: That it has to be proved.

3 MR. HUNOVAL: It has to be proven by the State of
4 North Carolina beyond a reasonable doubt that not only these
5 offenses were committed but that these two particular offenses
6 were committed by my client?

7 MRS. WOOTEN: Yes, sir.

8 MR. HUNOVAL: You understand that?

9 MRS. WOOTEN: Yes, sir.

10 MR. HUNOVAL: And you will hold the State of North
11 Carolina to maintain that burden of proof, will you not?

12 MRS. WOOTEN: I am still confused.

13 MR. HUNOVAL: Okay. Well, feel free to clear up and
14 ask me any question whatsoever. Mrs. Wooten, will you not in
15 your mind and in your heart demand of the State of North Carolina
16 that they prove first of all that these offenses were committed
17 and that my client committed them beyond any reasonable doubt
18 that you might have?

19 MRS. WOOTEN: Yes.

20 MR. HUNOVAL: You will. Okay. Thank you. Mrs.
21 Alford, do you have any children?

22 MRS. ALFORD: Yes, sir.

23 MR. HUNOVAL: You do?

24 MRS. ALFORD: Yes, sir.

25 MR. HUNOVAL: How many children do you have?

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MRS. ALFORD: Four.

MR. HUNOVAL: Four children, and they are with you in the home, is that correct?

MRS. ALFORD: Yes, sir.

MR. HUNOVAL: And the only thing you know about this case is what you read in the paper or seen on television, is that right?

MRS. ALFORD: Yes, sir.

MR. HUNOVAL: Do you understand that the State of North Carolina must prove their case beyond a reasonable doubt, you understand that?

MRS. ALFORD: Yes, sir.

MR. HUNOVAL: Do you understand that my client, Ann Shepard, has a constitutionally protected presumption of innocence; do you understand that she is entitled to that presumption of innocence?

MRS. ALFORD: Yes, sir.

MR. HUNOVAL: You understand that she is entitled to it; do you feel as though you can recognize it's a fact and give it full force and effect throughout this trial and force the state to overcome that presumption of innocence by proving beyond a reasonable doubt that my client committed the offenses she is alleged to have committed?

MRS. ALFORD: Yes, sir.

MR. HUNOVAL: Do you believe that you can render a

1 fair and impartial verdict in this case, is that correct?

2 MRS. ALFORD: Yes, sir.

3 MR. HUNOVAL: Mr. James.....

4 MR. JAMES: Yes, sir.

5 MR. HUNOVAL:I believe that Mr. Stroud asked
6 you as well whether or not you held any view which were preju-
7 dicial to the State of North Cardina, and you replied that you
8 did not, is that correct?

9 MR. JAMES: That is correct.

10 MR. HUNOVAL: Now, do you hold any views at this par-
11 ticular point in the trial which might be prejudicial to my
12 client, Mrs. Ann Shepard?

13 MR. JAMES: No, sir.

14 MR. HUNOVAL: You do not. Is there anyone on the
15 jury as it is now constituted who might or who have held views
16 which were prejudicial to my client; if there is anyone on this
17 jury that has or had an opinion or views which were prejudicial
18 to Ann Shepard, I would like for them to please raise their
19 hand. (NO RESPONSE.) I believe that one of the questions that
20 Mr. Stroud asked of all members of the jury as it was then con-
21 stituted was whether or not the fact - strike that. I believe
22 one of the questions of the solicitor was whether the fact that
23 the defendants were negro or black would affect your decision.
24 I would ask you in light of the fact that Mrs. Shepard is white
25 whether the fact of her being white would affect your decision

1 in this case. If there is anyone on the jury as it is now con-
 2 stituted who believes that Mrs. Shepard being white would be
 3 somehow in any manner whatsoever detrimentally affected by the
 4 complexion of her skin, I would like that person or persons to
 5 please raise their hand. (NO RESPONSE.) Would the fact that
 6 Mrs. Shepard's being white charged with certain crimes involving
 7 black defendants, would that fact standing alone in and of
 8 itself adversely affect your opinion of Mrs. Shepard. If there
 9 is anyone on the jury as it is now constituted who believes
 10 that this in their personal mind might adversely affect her
 11 case, I would like them to please raise their hands. (NO
 12 RESPONSE.) Mr. Jones, you mentioned that you are a farmer, is
 13 that correct?

14 MR. JONES; Yes, sir.

15 MR. HUNOVAL: And you own a farm here in Pender County?

16 MR. JONES: I farm with my father.

17 MR. HUNOVAL: You farm with your father. Is it a
 18 large farm or a small farm?

19 MR. JONES: It's about 150 acres.

20 MR. HUNOVAL: What kind of crops do you grow on that
 21 farm?

22 MR. JONES: We raise calves, and corn for beef cattle.

23 MR. HUNOVAL: So you don't have occasion to need a
 24 lot of help, then; most of it is mechanical; is most of the
 25 work done on the farm mechanical work, done with machines?

1 MR. JONES: Yes, sir.

2 MR. HUNOVAL: And you don't have a whole lot of labor,
3 is that correct?

4 MR. JONES: Yes, sir.

5 MR. HUNOVAL: Do you feel as though -- Do you still
6 feel at this particular moment in time, you still have an unbiased
7 and impartial viewpoint of the whole case, you think that?

8 MR. JONES: I don't understand what you are talking
9 about.

10 MR. HUNOVAL: All right. I will rephrase the ques-
11 tion. Do you believe that at this particular point, right now,
12 you have a biased opinion - strike all that. Do you believe
13 that you can render a fair and impartial decision in this trial?

14 MR. JONES: I believe I could.

15 MR. HUNOVAL: You think you could?

16 MR. JONES: Yes, sir.

17 MR. HUNOVAL: And you would base that decision solely
18 on the evidence that you hear from that witness stand, what the
19 lawyers say in summation, and what the Judge says, and nothing
20 else, is that right?

21 MR. JONES: Yes, sir.

22 MR. HUNOVAL: Do you recognize the fact that my client
23 comes into this court with a constitutionally protected pre-
24 sumption of innocence; do you recognize the existence of that
25 presumption?

1 MR. JONES: Yes, sir.

2 MR. HUNOVAL: And do you believe that the State of
3 North Carolina has the burden of proving beyond / any reasonable
4 doubt that my client is guilty of these two conspiracy charges?

5 MR. JONES: I believe she must be proved guilty.

6 MR. HUNOVAL: Right. Do you also believe, Mr. Jones,
7 that the state has to prove their case beyond any reasonable
8 doubt?

9 MR. JONES: Yes, sir.

10 MR. HUNOVAL: Mrs. Boney, in light of everything you
11 have seen, everything you have read, / in light of everything you know about
12 this case as it presently exists before you, do you feel that
13 my client, Ann Shepard, should be convicted of some charge?

14 MRS. BONEY: Do I think she should be convicted? Not
15 unless she is proven guilty.

16 MR. HUNOVAL: Not unless she is proven guilty of some
17 charge beyond a reasonable doubt?

18 MRS. BONEY: That's right.

19 MR. HUNOVAL: Mr. Thompson, how would you answer
20 that question?

21 MR. THOMPSON: The same as she did.

22 MR. HUNOVAL: Okay. How about you, Mrs. Walker?

23 MRS. WALKER: The same way.

24 MR. HUNOVAL: How about you, Mrs. Wooten?

25 MRS. WOOTEN: She would have to be proven guilty.

1 MR. HUNOVAL: So you would feel that just because of
2 everything you have said and heard and seen and just because of
3 the existence of the present charges against her, you would not
4 feel compelled to convict her of something, is that right; you
5 would still force the State of North Carolina to go forward and
6 prove their case beyond a reasonable doubt?

7 MRS. WOOTEN: (NO ANSWER HEARD.)

8 MR. HUNOVAL: How about you, Mr. Rooks?

9 MR. ROOKS: Yes, I believe she would have to be
10 proven guilty before I would render a verdict of guilty.

11 MR. HUNOVAL: Beyond a reasonable doubt, is that right?

12 MR. ROOKS: Yes, sir.

13 MR. HUNOVAL: Does everyone else feel the same way
14 about that question? (NO RESPONSE HEARD.) Has anyone on the
15 jury as it is now constituted expressed an opinion that my
16 client should be convicted of something or was guilty of the
17 charges against her. If there is, I would like you to raise
18 your hand. (NO RESPONSE.) Is there anyone on the jury as it
19 is now constituted who knows of any reason, mental or physical,
20 that would disqualify you for service? (NO RESPONSE.) Mr.
21 Murray, if you were of the opinion that the defendant, Mrs.
22 Shepard, is not guilty of the offense that she is charged with
23 or you have a reasonable doubt as to her guilt, will you permit
24 anything or any reason to influence you to compromise that
25 feeling that you have?

1 MR. MURRAY: No, sir.

2 MR. HUNOVAL: Does everyone on the jury as it is now
3 constituted understand that question? Is there is anyone on
4 the jury who does not understand that last question, I would
5 like for them to please raise their hand. (NO RESPONSE.)
6 Mr. Thompson.....

7 MR. THOMPSON: Yes, sir.

8 MR. HUNOVAL:if you are firmly convinced after
9 hearing and having gone through this whole trial, after hearing
10 all of the evidence and summation and charges that Ann Shepard
11 is not guilty, will you permit anything to influence you to
12 change your personal conviction?

13 MR. THOMPSON: No, sir.

14 THE COURT: Gentlemen, approad the bench a moment.

15 (COUNSEL CONFER WITH THE COURT AT THE BENCH.)

16 MR. HUNOVAL: Mrs. Wooten, I believe I might excuse
17 you. Thank you, Mrs. Wooten.

18 THE COURT: Do you, sir, or do you not?

19 MR. HUNOVAL: I'd like to, yes, sir. I mean, I do.

20 CLERK: Bennett Wagstaff (WHITE).

21 MR. HUNOVAL: Mr. Wagstaff, do you have a hearing
22 problem, Mr. Wagstaff?

23 MR. WAGSTAFF: I beg your pardon?

24 MR. HUNOVAL: Mr. Wagstaff, can you think of any
25 mental or physical reason why you should not serve on this jury?

1 MR. WAGSTAFF: Well, I don't think so.

2 MR. HUNOVAL: Mr. Wagstaff, how old are you, sir?

3 MR. WAGSTAFF: Seventy-five.

4 MR. HUNOVAL: Are you married or single, Mr. Wagstaff?

5 MR. WAGSTAFF: Married.

6 MR. HUNOVAL: And do you have any children?

7 MR. WAGSTAFF: A couple.

8 MR. HUNOVAL: Are you hard of hearing, Mr. Wagstaff?

9 MR. WAGSTAFF: A little bit, yes, sir.

10 MR. HUNOVAL: Do you wear a hearing aid?

11 MR. WAGSTAFF: No, sir. I have one.

12 MR. HUNOVAL: You do not have one on?

13 MR. WAGSTAFF: No, I haven't.

14 MR. HUNOVAL: Have you ever been prescribed a hearing

15 aid?

16 MR. WAGSTAFF: No, not in the last few years I haven't.

17 MR. HUNOVAL: But prior to the last few years you

18 were?

19 MR. WAGSTAFF: I have been about a couple of years

20 ago.

21 MR. HUNOVAL: Have you heard every single word that

22 has been said in this trial?

23 THE COURT: Well, that's an unfair question, Mr.

24 Hunoval. I haven't either. Just a little bit of levity.

25 MR. HUNOVAL: Mr. Wooten (SIC), have you - excuse me.

1 Mr. Wagstaff, have you heard all of the questions/the solicitor, 190
2 Mr. Stroud?

3 MR. WAGSTAFF: (NO RESPONSE.)

4 MR. HUNOVAL: Your Honor, I think I would like to
5 challenge him for cause. I think he's having problems hearing.
6 I don't think he has stated that he hasn't heard some of what
7 has transpired here, and he has admitted to the fact that at
8 some time in the past he has worn a hearing aid and he has
9 gotten older and presumably more infirm.

10 THE COURT: Well, I don't see any indications of
11 infirmity, Mr. Hunoval. Let me ask you, sir: Do you feel like
12 you have heard the questions of Mr. Hunoval and of the other
13 attorneys here reasonably well?

14 MR. WAGSTAFF: Well, I think so.

15 THE COURT: Do you hear me reasonably well here?

16 MR. WAGSTAFF: Yes, sir. I will be frank. I am a
17 little bit hard of hearing. I don't hear too good.

18 THE COURT: I do not recall when I asked for excuses
19 yesterday morning whether you held up your hand or not. Did
20 you?

21 MR. WAGSTAFF: Yes, sir.

22 THE COURT: And did you then state that you were
23 having a little difficulty with your hearing?

24 MR. WAGSTAFF: No, I don't think so.

25 THE COURT: Do you assign that as a reason for your

1 being excused?

2 MR. WAGSTAFF: (NO ANSWER.)

3 THE COURT: I believe, sir, we will excuse you.

4 MR. HUNOVAL: Thank you.

5 CLERK: William Allen Futch (WHITE).

6 MR. HUNOVAL: Mr. Futch, have you heard all of the
7 questions propounded so far?

8 MR. FUTCH: Yes, sir.

9 MR. HUNOVAL: Mr. Futch, are you in any way related
10 to the person who was killed by Jerome Mitchell and Zane Parkins
11 in a house down in Wilmington just recently?

12 MR. FUTCH: No, sir.

13 MR. HUNOVAL: Mr. Futch, are you a student or.....

14 MR. FUTCH: No, sir.

15 MR. HUNOVAL: All right. You work?

16 MR. FUTCH: Yes, sir.

17 MR. HUNOVAL: For whom?

18 MR. FUTCH: Carlyle Poultry.

19 MR. HUNOVAL: Excuse me; I didn't hear you.

20 MR. FUTCH: Carlyle Poultry.

21 MR. HUNOVAL: Carlyle Poultry. And what do you do
22 for Carlyle Poultry?

23 MR. FUTCH: Run a machine.

24 MR. HUNOVAL: How old are you?

25 MR. FUTCH: Nineteen.

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MR. HUNOVAL: Is this the first time you ever sat on a jury?

MR. FUTCH: Yes, sir.

MR. HUNOVAL: Can you think of any reason whatsoever that would render you mentally or physically impossible to sit up there?

MR. FUTCH: No, sir.

MR. HUNOVAL: Have you read a lot about this case?

MR. FUTCH: No, sir.

MR. HUNOVAL: Do you understand that my client is presumed to be innocent and has a constitutional protection with that presumption of innocence?

MR. FUTCH: Yes, sir.

MR. HUNOVAL: How far did you go in school?

MR. FUTCH: Eleventh grade.

THE COURT: Talk a little louder, please.

MR. FUTCH: Eleventh.

MR. HUNOVAL: Are you married?

MR. FUTCH: No, sir.

MR. HUNOVAL: Do you live with your folks?

MR. FUTCH: Yes, sir.

MR. HUNOVAL: Have you ever expressed an opinion as to the guilt or innocene of my client here?

MR. FUTCH: No, sir.

MR. HUNOVAL: You know what my client is charged with,

1 don't you?

2 MR. FUTCH: Yes, sir.

3 MR. HUNOVAL: Mr. Futch, I believe I might excuse you.

4 Thank you very much.

5 CLERK: Allen Wright Moore (WHITE).

6 MR. HUNOVAL: Mr. Moore, can you tell us your age,

7 please?

8 MR. MOORE: I'll be twenty-six this month.

9 MR. HUNOVAL: And you live here in Pender County?

10 MR. MOORE: Yes, sir.

11 MR. HUNOVAL: Are you married?

12 MR. MOORE: Yes, sir.

13 MR. HUNOVAL: Do you have a family?

14 MR. MOORE: Yes, sir.

15 MR. HUNOVAL: How many children?

16 MR. MOORE: Just one.

17 MR. HUNOVAL: Is there anyone in your immediate family
18 or you, yourself, a law enforcement officer?

19 MR. MOORE: No, sir.

20 MR. HUNOVAL: A fireman?

21 MR. MOORE: No, sir.

22 MR. HUNOVAL: Is anyone in your immediate family
23 employed by the State of North Carolina?

24 MR. MOORE: I have an uncle who is a License Examiner
25 in Lumberton.

1 MR. HUNOVAL: What town?

2 MR. MOORE: Lumberton, North Carolina.

3 MR. HUNOVAL: He has never been involved in this case,
4 has he?

5 MR. MOORE: No, sir.

6 MR. HUNOVAL: Have you ever formulated an opinion as
7 to the guilt or innocence of my client in this case?

8 MR. MOORE: No, sir.

9 MR. HUNOVAL: Do you think you, it is so that you
10 could render a fair and impartial decision in this case?

11 MR. MOORE: Yes, sir, I do.

12 MR. HUNOVAL: Do you think you could render a decision
13 both fair to the State of North Carolina and fair to my defen-
14 dant, Ann Shepard?

15 MR. MOORE: Yes, sir.

16 MR. HUNOVAL: Do you know that I am only representing
17 one defendant here?

18 MR. MOORE: Yes, sir, I do.

19 MR. HUNOVAL: Do you know that there are only two
20 charges against her, is that correct?

21 MR. MOORE: Yes, sir.

22 MR. HUNOVAL: And you know that those charges are
23 for conspiring and not for the commission of the actual act of
24 assaulting the different people and burning the building, you
25 know that?

1 MR. MOORE: Yes, sir.

2 MR. HUNOVAL: Do you know that the State of North
3 Carolina must prove beyond a reasonable doubt all the elements
4 of this crime and overcome the constitutionally protected safe-
5 guard of the presumption of innocence that my client has, you
6 understand that?

7 MR. MOORE: Yes, sir.

8 MR. HUNOVAL: Does everyone on the jury as it is now
9 constituted understand that if and when I object during the
10 course of this trial it is not for the purposes of harassment,
11 hiding the truth, or intimidation of witnesses, but solely for
12 the purposes of seeking the truth. Does everyone on the jury
13 know that will be the reason why I will object/a question, if
14 I do? (NO RESPONSE.)

15 THE COURT: Mr. Hunoval, I am afraid that you are
16 expecting the jurors to answer questions that would be difficult
17 for them to comprehend under the situation. For information,
18 the Court will, prior to the beginning of the evidence, briefly
19 explain to the jurors the significance of objections.

20 MR. HUNOVAL: Okay. Mrs. Walker -- Strike that. I
21 want to ask this of Mrs. Eakins. Mrs. Eakins, do you understand
22 that my client, Ann Shepard, does not have the burden of proving
23 her innocence, do you understand that?

24 MRS. EAKINS: That's right. I understand.

25 MR. HUNOVAL: Mr. James.....

1 MR. JAMES: Yes, sir.

2 MR. HUNOVAL:do you understand that my client,
3 Ann Shepard, does not have the burden of proving her innocence,
4 do you understand that?

5 MR. JAMES: Yes, sir.

6 MR. HUNOVAL: How about you, Mr. Edens, do you under-
7 stand that?

8 MR. EDENS: Yes, sir.

9 MR. HUNOVAL: She is not the one that is saddled with
10 the burden of proving her innocence; it is the state that must
11 prove beyond a reasonable doubt that she is guilty of these
12 charges, you understand that?

13 MR. EDENS: Yes, sir.

14 MR. HUNOVAL: Does everyone on the jury as it is now
15 constituted understand that? (NO RESPONSES HEARD.)

16 MR. HUNOVAL: Mrs. Worrell, if the State of North
17 Carolina is unable to prove beyond a reasonable doubt any
18 element or all elements of the charges against her beyond a
19 reasonable doubt, will you personally vote for acquittal?

20 MRS. WORRELL: If I saw fit to.

21 MR. HUNOVAL: Well, Mrs. Worrell, if the state is
22 not able to maintain their burden of proof and the state does
23 not prove their case beyond a reasonable doubt, will you vote
24 to acquit Ann Shepard?

25 MRS. WORRELL: Yes, sir.

1 MR. HUNOVAL: How about you, Mr. Murray?

2 MR. MURRAY: Yes, sir.

3 MR. HUNOVAL: If there is a reasonable doubt in your
4 mind and the state can't prove their case beyond that reasonable
5 doubt, will you vote for acquittal?

6 MR. MURRAY: Yes, sir.

7 MR. HUNOVAL: How about you, Mr. Thompson?

8 MR. THOMPSON: Yes, sir.

9 MR. HUNOVAL: Mrs. Boney?

10 MRS. BONEY: Yes, sir.

11 MR. HUNOVAL: Mr. Rooks?

12 MR. ROOKS: Yes, sir.

13 MR. HUNOVAL: How about you, Mr. Edens?

14 MR. EDENS: Yes, sir.

15 MR. HUNOVAL: You will vote for acquittal if they
16 don't prove their case beyond a reasonable doubt?

17 MR. EDENS: Yes, sir.

18 MR. HUNOVAL: How about you, Mrs. Walker? If there
19 is a reasonable doubt after all the evidence comes in, after
20 summation of the respective counsel and the state, and the
21 charge of the jury (SIC), if there is still any reasonable
22 doubt in your mind will you vote for an acquittal?

23 MRS. WALKER: Yes, sir.

24 MR. HUNOVAL: IS there anyone who would not; if the
25 state does not do their job and if the state is unable to prove

1 beyond a reasonable doubt that she is guilty of these offenses,
 2 is there anyone who would not vote for an acquittal? (NO
 3 RESPONSE HEARD.) Mr. Thompson, do you know that in this case
 4 you will have, if this case as it pertains to my client reaches
 5 the jury, you will have the power to find all of the defendants
 6 including my defendant to be not guilty; do you understand that
 7 you will have that power?

8 MR. THOMPSON: Yes, sir.

9 MR. HUNOVAL: And do you understand that you will
 10 have the power to find all of the defendants to be guilty?

11 MR. THOMPSON: (INDICATES AFFIRMATIVE.)

12 MR. HUNOVAL: Do you also understand that you will
 13 have the power to find some of the defendants guilty and some
 14 of the defendants to be innocent or not guilty?

15 MR. THOMPSON: That's correct.

16 MR. HUNOVAL: Mr. Moore, did you understand that
 17 question?

18 MR. MOORE: Yes, sir, I did.

19 MR. HUNOVAL: And you know that you will have the
 20 power to find either all of the defendants to be not guilty,
 21 all of the defendants to be guilty, or some of the defendants
 22 to be not guilty and some of the defendants to be guilty; do
 23 you understand that?

24 MR. MOORE: Yes, sir.

25 MR. HUNOVAL: Is there anyone on the jury as it is

1 now constituted who does not understand that? (NO RESPONSE.) 200

2 MR. HUNOVAL: Your Honor, I am satisfied with the jury.

3 THE COURT: What say the other defendants? We will
4 go until five-thirty this afternoon, gentlemen.

5 MR. FERGUSON: Ladies and gentlemen of the jury, my
6 name is James Ferguson. My office is located in Charlotte,
7 North Carolina. Seated immediately next to me is Frank Ballance,
8 who is an attorney from Warrenton, North Carolina. Also with
9 us on this case is attorney John Harmon, from New Bern, North
10 Carolina. Some of you may have seen him sitting at the table
11 with us the first day we were here in court. We represent each
12 one of these young men you see seated along here and seated at
13 the table, and I want you to meet the young men we represent
14 because I am going to ask you some questions about them. The
15 gentleman seated over here on the end is Wayne Moore. He is
16 from Wilmington, North Carolina. Seated next to him is Reginald
17 Epps, of Wilmington, North Carolina. Next to him is James McKoy,
18 of Wilmington, North Carolina. Next to him is - excuse me; I
19 have some pollen in my throat - William Dallas Wright, also
20 known as Joe Wright, Jr., who is also from Wilmington, North
21 Carolina. Next to him is Jerry Jacobs, a young man from
22 Wilmington, North Carolina. Immediately next to him is George
23 Kirby, of Wilmington, North Carolina. And next to Mr. Kirby
24 is Connie Tyndall, of Wilmington, North Carolina. And on the
25 end, the far end on that row, is Willie Vereen, of Wilmington,

(CONTINUED INTO VOLUME TWO)

1 STATE OF NORTH CAROLINA) IN THE GENERAL COURT OF JUSTICE
2 COUNTY OF PENDER) SUPERIOR COURT DIVISION
3) 6-5-1972 SPECIAL CRIMINAL SESSION

FILE NOS. 72-CR-1653
through
72-CR-1683

5 STATE OF NORTH CAROLINA,)
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PLAINTIFF,)
-VS-)
BENJAMIN FRANKLIN CHAVIS,)
ET ALS,)
DEFENDANTS.)

TRANSCRIPT OF TESTIMONY

VOLUME TWO

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