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~~Q Do you know what debts you owe?~~

~~A None.~~

~~Q I <sup>not</sup> Do you have any outstanding debts?~~

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

~~Q <sup>I</sup> Do you live in the home with <sup>my</sup> your parents?~~

~~A Yes, I do.~~

~~Q How many children live in the home with you<sup>me</sup>?~~

~~A Three.~~

~~Q Three besides <sup>myself</sup> yourself?~~

~~A That is right.~~

~~Q I have no further questions.~~

EXAMINATION BY THE COURT:

~~Q What is your name?~~

~~A William Dallas Wright, Jr.~~

~~Q You say you are 19 years old?~~

~~A Yes, sir.~~

~~Q Why aren't you working?~~

~~A Your Honor, after I got out of jail it was first of all hard to obtain a job in Wilmington. I got a job at a construction site working with Allison Fencing. The job only lasted three weeks.~~

~~Q Can;t you find work around Wilmington?~~

~~A I am mostly known around Wilmington as William Wright charged with 4 felonies and to some people that makes a difference.~~

~~Q Did you ever farm any?~~

A Wilmington?

Q This area where we are now, New Hanover, isn't that a farming area?

A Not New Hanover.

Q Have you ever farmed any?

A No, I haven't.

Q You don't know anything about farming?

A Not a thing.

Q What kind of work did you do?

A Well after I got out of jail like I said -

Q What kind of work did you ever do? Did you ever work anywhere?

A Yes, I did. I worked during school at Schwartz's Furniture Company as a furniture salesman. I have worked the year before that at Chanel 3 T V as a part time cameraman, and, of course, those jobs were only temporary because I was in high school. In summer I would work as a long shoreman down to the docks on the boat.

Q Isn't any of that work available?

A Yes, sir; it is, your Honor. But, see, unless you are a union member you are not really guaranteed a job. You have gang leaders and they pick -

Q It is hard for me to believe that an able bodied man can't get work these days. Are your mother and father supporting you; feeding you?

A For right now.

Q What kind of work does your father do?

A He is a maintenance man working with the Housing Authority in Wilmington.

Q This bond that you put up, is it a professional bond? Does the bonding company sign the bond or some individual?

A I am really not sure.

Q You didn't pay for it, did you?

A I didn't.

Q Well you are not able to pay your lawyer. Is that right?

A That is right.

Q Did you pay him the first time?

A My parents paid him.

Q Are your parents not able to employ him this time?

A In my opinion, no, your Honor. There are so many other things.

MARVIN EUGENE PATRICK, being duly sworn, deposes and says:

EXAMINATION BY MR. FERGUSON:

~~Q State your name~~

~~A Marvin Eugene Patrick.~~

~~Q You are one of the defendants in this action?~~

~~A Yes, I am.~~

~~Q How old are you, Mr. Patrick?~~

~~X~~ <sup>I am</sup> 20-year old.

~~Q~~ Are you employed?

~~A~~ No, I am not employed

~~Q~~ What is your <sup>my</sup> present income?

~~A~~ Nothing.

~~Q~~ <sup>I</sup> You don't have any?

~~A~~ No.

~~Q~~ <sup>not</sup> Do you know what <sup>my</sup> your parents' income is?

~~A~~ No.

~~Q~~ <sup>not</sup> Do you have any money?

~~A~~ I don't.

~~Q~~ <sup>I am not</sup> Are you married?

~~A~~ No.

~~Q~~ <sup>not</sup> Do you own a car?

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

~~Q~~ <sup>not</sup> Do you own any property whatsoever?

~~A~~ No.

~~Q~~ <sup>no myself</sup> Did you yourself put up any money for <sup>my</sup> your bond?

~~A~~ No.

~~Q~~ <sup>not</sup> Do you have any outstanding debts?

~~A~~ No.

~~Q~~ That is all.

EXAMINATION BY THE COURT/

~~Q~~ When was the last time you worked?

~~A~~ Right after I got out of the Army back in May '71.

Q You haven't worked since May '71?

A Well I have had several jobs.

Q What did you do?

A I worked at France Knit Wick and Garvers, manufactured shirts. I worked for long shoreman.

Q Did you save any money?

A At the time I did.

Q Have you not got any now?

A No, I haven't.

Q Did you pay your lawyer the first time?

A Yes.

Q You don't have the money to pay him now?

A No, I haven't.

Q Did you pay him yourself the first time?

A No, I didn't. I got some money from my cousin.

Q Have you got anymore cousins you can get somemore money from?

A No.

Q Did anybody help you pay him the first time?

A I just said I got money from my cousin.

Q I mean anybody.

A My mother did.

Q She'd not able to help you this time?

A No.

Q Where do you live?

A I live in Wilmington. I have some friends in Raleigh.

Q Did you work in Raleigh?

A I tried to find a job.

Q Couldn't find a job these days?

A Sho' can't.

Q Who is supporting you?

A No one really.

Q How are you eating?

A My mother.

Q Your mother a widow?

A Yes, sir.

Q Your widowed mother supporting a grown 20 year old able-bodied man?

A That is right.

SOL. STROUD: Your Honor, the State would be interested in knowing a couple of things.

They say they have sought for employment. I'd be interested in knowing where they sought for employment.

THE COURT: Ask him.

EXAMINATION BY SOL. STROUD:

Q Where have you looked for employment?

A I went to a couple of places in Raleigh; a shoe store and I tried a factory. I went back down to Franks.

Q What was your result of your interviews with these people?

A Well I guess they checked my record and found out

who I was.

Q How many places altogether have you applied for employment since - well let's say, the last three months?

A Three or four I think not counting the places I went to and talked to people.

Q What about your bond? Who is taking care of your bond?

A Professional bondsman.

Q Who put up that money?

A I don't know.

Q You don't know?

A I haven't talked to the bondsman.

Q Who arranged for your bond?

A Lawyer I guess.

SOL. STOUUD: Your Honor, the State would be interested in knowing who is putting up the bond money or taking care of the bond. Could be that this source would be available for counsel fees.

Q You say the first time you did pay Mr. Ferguson some money?

A Yes.

Q Do you recall how much you paid him?

A Two hundred dollars. I am not sure. My mother gave me the check.

Q Have you asked your mother about paying him any

money this time?

A I haven't even talked to her about it.

Q Why haven't you?

A Why haven't I?

Q Why haven't you talked to your mother about helping pay for it?

A She said she gave me the money. I haven't discussed it with her.

Q Why haven't you this time?

A I have, but she don't have the money.

Q Have you applied to any other organization or group for help to pay your attorneys' fees?

MR. FERGUSON: Your Honor, I object. This could be on all day.

THE COURT: Objection sustained.

SOL. STROUD: Mr. Ferguson put them on and he is declaring their indigency.

MR. FERGUSON: The defendants are not obligated to seek help from any organization. The question is whether or not the defendant is indigent and able to pay for his defense.

Q How much bond are you under?

A \$25,000.00, the last.

Q I have no further questions.

THE COURT: I suppose, Mr. Solicitor, this is a matter that has to be determined by the Court. I probably should make all inquiry that has to

be made. Stand aside.

REGINALD BERNARD EPPS, being duly sworn, deposes and  
says:

EXAMINATION BY MR. FERGUSON:

Q State your name.

A Reginald Bernard Epps.

Q How old are you?

A 19.

Q Are you employed?

A No.

Q Do you have any income?

A No.

Q How many children are there in your family?

A There is nine.

Q Including you, nine?

A That is right.

Q Do you have any money anywhere?

A No.

Q Are you married?

A Yes.

Q Do you own a car?

A No.

Q Do you own any property whatsoever?

A No.

Q Do you have any debts or obligations that you are  
aware of?

A No, none that I know of.

Q Do you have any money with which to pay a lawyer to represent you in these cases?

A No.

Q That is all the questions I have.

EXAMINATION BY THE COURT:

Q How old do you say you are?

A 19.

Q When is the last time you worked?

A Last summer I worked down on the beach at a hotel. I just got out of school. During school it is hard to find part time work.

Q You haven't worked anywhere since last summer a year ago? Do you mean just past?

A I am just graduating.

Q You graduated from high school this spring?

A Yes.

Q You haven't done any work since you got out of school this spring?

A Nothing much.

Q How much have you done?

A Something that would buy a shirt.

Q Who has been supporting you and feeding you?

A Mother.

Q You haven't tried to get work, have you?

A I have got applications all around the place.

Q Where?

A One at the Industrial Phone Service; got at employment place on Market Street and service stations; hotels.

Q Have you applied at the Security Commission?

A I had, but they were still looking for me. They never did get in contact with me. They were looking for a job. They hadn't got in contact.

Q They haven't told you they got one?

A They haven't.

Q Have you been where they could find you?

A Yes, at my mother's. They have got the address.

Q Is your father living?

A Stepfather.

Q Who supports you?

A Well he pulls to get it.

Q Your mother and your stepfather are supporting you?

A Right.

Q You are how old? 20 years old?

A 19.

Q Did you pay Mr. Ferguson the first trial?

A I believe my mama got a loan to get some money.

Q Did they try to help you this time?

A I don't think she can this time. She's got all them other kids to look out for.

Q She's there working and looking after the children and you are out here loafing, aren't you?

A I was taken out of school. She was getting hers together on these other kids and she's trying to pay for this other thing. There's no way. I don't think she can do it this time.

RE-EXAMINATION BY MR. FERGUSON:

Q You finished school while you were in jail. Is that right?

A Right.

Q And you couldn't get out of jail for a long while?

A Yes.

WAYNE MOORE, being duly sworn, deposes and says:

EXAMINATION BY MR. FERGUSON:

Q State your name.

A Wayne Moore.

Q How old are you, Mr. Moore?

A 19.

Q When did you finish school?

A I finished school 28th of last month.

Q Are you employed now?

A No, I am not.

Q Do you have any income?

A No.

Q Do you have any money anywhere?

A No.

Q Are you married?

A. No.

Q. Do you own a car?

A. No.

Q. You had to go out and find somebody to bring/you up to court today. Is that right?

A. Right.

Q. Do you own any property whatsoever?

A. No.

Q. Do you live in the home with your mother?

A. Right.

Q. Do you owe any debts that you know of?

A. Lawyer fees.

Q. Other than that?

A. No.

Q. That is all the questions I have.

EXAMINATION BY THE COURT:

Q. Did you pay Mr. Ferguson for the first trial?

A. No, I haven't.

Q. Do you know who paid him?

A. He hasn't been paid.

Q. Do you owe him for both trials?

A. Right.

Q. When is the last time you worked anywhere?

A. I worked the day after I got out of jail. I went back to the job that I had had before I got arrested and I worked there for about a month and after the month

everybody around the place had been hasting me about I had been arrested and charged with this. So the manager of the place just politely asked me to leave.

Q Stand aside.

WILLIE EARL VEREEN, being duly sworn, deposes and says:

DIRECT EXAMINATION BY MR. FERGUSON:

Q State your name.

A Willie Earl Vereen.

Q How old are you?

A 18.

Q Are you employed?

A No, I am not.

Q Do you have any income?

A No, I don't.

Q Are you married?

A No.

Q Do you own a car?

A No.

Q Do you own any property whatsoever?

A No.

Q Are you in school?

A Yes, I am.

Q Do you have any outstanding debts and obligations that you are aware of?

A No.

Q That is all I have.

EXAMINATION BY THE COURT:

Q Where are you in school?

A John T. Hoggard.

Q What grade are you?

A Sophomore.

JERRY JACOBS, being duly sworn, deposes and says:

EXAMINATION BY MR. FERGUSON:

Q State your name, please.

A Jerry Jacobs.

Q How old are you?

A 20.

Q Are you employed?

A No now. I was. I was working. I am going to court.

Q You were working but you are not employed now?

A No.

Q Do you have any present income?

A No.

Q Are you married?

A Not yet.

Q Do you own a car?

A No.

Q Do you own any property whatsoever?

A No.

Q That is all.

EXAMINATION BY THE COURT:

Q Who do you live with?

A My mother.

Q Is she a widow?

A No, she is not.

Q Your father living?

A Yes, but he doesn't live with us.

Q He doesn't help you all?

A Yes, he helps.

Q You say you worked up until today?

A I was working at a filling station.

Q Were you saving some money?

A Yes, sir.

Q You have some to pay your lawyer?

A No, sir; I have a baby expected.

Q I thought you said you weren't married.

A I am expecting to get married.

Q You are expecting to get married?

A Yes.

Q What does that have to do with your money?

A I have got a doctor bill.

Q You have got a doctor bill. What does that have to do with getting married?

A I said I was expecting to get married.

Q You are expecting to get married and you are paying a doctor?

A You said what am I doing with my money. I said I

am going to pay the doctor.

Q You are?

A I am going to get married to the mother of the child.

Q You are working you say?

A Yes.

Q You don't own an automobile?

A No, sir.

Q You don't own a house; furniture?

A No, sir.

Q Do you have any money in the Post Office; the bank?

A No.

Q How much do you make a week?

A It is a part time job. I make approximately 40 or a little bit more.

Q You make more than \$40.00 a week at the filling station?

A It is a part time.

Q Can't you get a full time job?

A No, sir.

Q Why?

A Because it is a part time job.

Q You know people are begging for help around the filling stations. Don't you know that? Full time they don't have enough people to do the work around the service stations?

A I got a job the first place I could.

JAMES MATTHEW MCKOY, being duly sworn, deposes and  
says:

EXAMINATION BY MR. FERGUSON:

Q State your name, please.

A James Matthew McKoy.

Q How old are you?

A 19.

Q Are you employed presently?

A I was. 'til I had to come to court.

Q Where?

A Corbett Lumber.

Q How long have you been employed there?

A A month and a week.

Q Prior to that time how long did you spend in jail?

A How long did I stay in jail?

Q Yes, before bond was posted.

A Three months I believe.

Q Are you married?

A No.

Q What was your income from the job?

A They took out so much I was making about 80 some,  
and I had to pay my uncle back for getting me out on  
bond.

Q Do you own a car?

A No.

Q Do you own any property at all?

A No.

EXAMINATION BY THE COURT:

Q Are you working?

A I was working 'til I had to come to court.

Q Where?

A Corbett Lumber.

Q Making about how much a week?

A Bringing home about 80 some.

Q You can employ a lawyer, can't you?

A No, not in the position I am in now.

Q What goes with your money? You said you paid your uncle back. He can wait a little while, can't he?

A I like to pay my debts.

Q You also want a lawyer, too, don't you?

A Yes.

Q Did you pay your lawyer the first time?

A Yes.

Q He is already paid for the first trial?

A Yes.

Q You have paid him part payment on this trial, haven't you?

A On the first trial?

Q You have paid him on the second trial partially, haven't you?

A This is the second trial?

Q Yes.

A I haven't paid him for this. I just paid him for the first trial.

Q Do you work out any kind of arrangement with him to pay him anytime in the future?

A I don't know.

Q Are you saying you don't have the money right now?

A No.

Q And you are making \$80.00 a week?

A Yes, 80 something.

Q You have got nobody to support but yourself?

A I have to give some to my mama.

Q You are not letting your mother support you?

A No, helping out paying my debts off since the time for the trial. I can't do nothing now.

Q Do you have an automobile?

A No.

Q Money in the bank?

A No.

Q In the Post Office?

A No.

Q Do you own any property?

A No.

Q Stand aside.

CONNIE TYNDALL, Being duly sworn, deposes and says:

EXAMINATION BY MR. FERGUSON:

Q State your name, please.

A Connie Tyndall.

Q How old are you?

A 22.

Q Are you presently employed?

A No, I am not.

Q Do you have any present income?

A No, I don't.

Q How long did you spend in jail before trial on this charge?

A Three months and about a week.

Q Are you married?

A No, I am not.

Q Do you own any property whatsoever?

A No, I don't.

Q And you have no money of your own to pay a lawyer. Is that correct?

A Not at this time.

Q That is all the questions I have.

EXAMINATION BY THE COURT:

Q Are you expecting some?

A I don't have any money at this time. It is possible I may be able to get some..

Q You think you can?

A There is a possibiliby.

Q Is your source of getting some money the same source of others of these defendants?

A Somewhat.

Q Do you think you can get money to employ counsel without being declared indigent?

A It would take sometime.

Q How long would it take?

A I couldn't rightly say.

Q Have you already been promised it?

A No, I haven't.

Q You seem to be pretty sure you are going to get some.

A Yes, I do.

Q And get enough to employ counsel for all the defendants?

A Me, myself?

Q Yes.

A No.

Q Just for yourself?

A For myself.

Q How long would it take you to get it?

A I can't say offhand.

Q You say you are not working anywhere?

A No, I am not.

Q When was the last time you worked anywhere?

A About a week and a half.

Q What kind of work did you do?

A Long shoreman.

Q Are you a member of the union?

A No, I am not. I am trying to work up enough hours to become eligible.

Q How much were you working a week?

A It is according to how many days I worked a week.

Q About how much were you making a week?

A Two or three days a week. I'd say about 80 or 90 dollars.

Q Have you saved up enough to employ counsel?

A I was not working this amount of time. I was before I got knocked up.

Q But you have been working since then?

A Yes, but it hadn't been but 2 or 3 days at the time.

Q But you have been making 80 or 90 dollars a week?

A I misunderstood you.

Q What are you making?

A The last time we worked a half a day.

Q How much do you make? Do you have any property anywhere?

A No, I don't.

Q Any automobile?

A No, I don't

Q Stand aside.

MR. FERGUSON: That is all the evidence we have. I have one request I wish to make of the Court before we begin the jury selection.

THE COURT: Yes, sir.

MR. FERGUSON: I would ask that the voir dire of the jurors be recorded and I would further ask in connection with our motion to quash the petite jury venire that it rate of each juror be recorded as that juror is called to the box. This is in accordance with the proceedings we followed at the last trial.

MR. HUNEVOL: Same thing, your Honor.

THE COURT: I'll allow the first motion that the voir dire may be recorded. I'll deny your second motion. (*Exception #*)

MR. HUNEVOL: I'd like to make an inquiry of the State's position on the two conspiracy charges as far as Mrs. Shepard is concerned.

SOL. STROUD: I will do as Mr. Hunevol and I agreed. We are putting them on trial only for accessory before the fact. They will never be called for trial for the purpose of conspiracy. I will end that matter just as I told him I would

MR. HUNEVOL: I am still not sure just what that means, your Honor. I think the proper way to take care of a matter of that sort would be for the State to voluntarily nol pros the case.

SOL. STROUD: The State is just not calling it for trial at this time, your Honor.

THE COURT: Either the case is brought over and you have agreed a venue or if it isn't the two cases that you gentlemen are agreeing that the venue may be changed.

MR. HUNEVOL: Yes, sir.

THE COURT: Inasmuch as this matter seems to be undecided I want you gentlemen to enter into whatever stipulation is necessary to accomplish this. I don't want this undetermined. When we start selecting the jury I want all of this determined. Let's take about a 10 minute recess and you can confer about this matter.

(The Court recessed from 3:50 until 4:18 P M.)

SOL. STROUD: It is stipulated and agreed between Matt Hunevol, Attorney for Ann Shepard and James Stroud, Sol. for the State, that the two charges of conspiracy to assault emergency personnel and to burn Mike's grocery store are nol prossed and that the charge of accessory before the fact of the burning of Mike's against Ann Shepard will be called for trial at this time as a result of an agreement that the venue on that charge be changed to Pender County from New Hanover County.

MR. HUNEVOL: I am court appointed attorney for Ann Shepard and after consultation with my client and advising her of all the implications of the nol pros and the consent to the change of venue I stipulate on behalf of my client that we have no objection and do consent to the change of venue to Pender County on accessory before the fact to burning Mike's Grocery.

SOL. STROUD: Stipulate between Mr. James Ferguson and James T. Stroud, Solicitor for the State that Mr. Ferguson's client William Dallas Wright is also known as Joe Wright and is charged in these cases as Joe Wright.

May it please the Court, at this time the State would like to call the cases for trial and before calling the cases the State would like to move that these cases be consolidated for the purpose of this trial and I will renew that motion aft I have called them.

In case number 72-Cr1656 the defendant Marvin Patrick is charged with conspiracy to assault emergency personnel. How does he plead?

THE COURT: I expect it would be well to read the entire indictment.

SOL. STROUD: He is charged in a bill of indict as follows: "The grand jurors for the State, upon their oath present that Marvin Patrick and

others, late of the County of New Hanover, on the 5th and 6th day of February, 1971, with force and arms, at and in the county aforesaid, did unlawfully, willfully and feloniously agree, plan, combine, conspire and confederate with BENjamine Franklin Chavis, Jerry Jacobs, James McKoy, Connie Tyndall, George Kirby, aAnn Shepard, REGinald Epps, Wayne Moore, Joe Wright to unlawfully, willfully, feloniously assault law enforcement officers of the City of Wilmington Police Department and firemen of the Wilmington Fire Department, serving as emergency personnel with and through the use of dangerous weapons, to wit, firearms in the area of 301 South 6th Street in Wilmington, North Carolina, which was within the immediate vicinity of an imminent right, against the form of the Statute in such case made and provided and against the peace and dignity of the State." How does he plead?

MR. FERGUSON: Mr. Patrick enters a plea of not guilty.

SOL. STROUD: In case number 72-Cr1658 the defendant Marvin Patrick is charged in the bill of indictment as follows: "The jurors for the State, upon their oath present that Marvin Patrick, late of the County of New Hanover on the 6th day of February, 1971, with force and arms, at and

in the County aforesaid, did unlawfully, willfully, maliciously and feloniously damage and burn the personal and real property owned and occupied by Mr. Mike Poulos, to wit, Mike's Grocery Store building and the contents thereof, located at 301 South 6th Street in Wilmington, North Carolina, by the use of firebombs, they being explosive or incendiary devices, said building was a two-story, wooden, frame building used to carry on the trade of marketing groceries and which contained goods, wares and merchandise commonly sold in a retail grocery business, against the form of the Statute in such case made and provided and against the peace and dignity of the State." How does he plead?

MR. FERGUSON: Enters a plea of not guilty.

If your Honor please, I understand the bills of indictment in the other cases are identical and we waive the reading of the entire bills on behalf of the others.

SOL. STROUD: In case number 71 Cr 1659, the defendant Connie Tyndall is charged in a bill of indictment with conspiring to assault emergency personnel with/<sup>a</sup>deadly weapon. How does he plead?

MR. FERGUSON: Mr. Tyndall pleads not guilty.

SOL. STROUD: The defendant Tyndall is also charged

in case number 72 Cr 1661 in that particular case he is charged in a bill of indictment with burning property with an incendiary device.

MR. FERGUSON: He enters a plea of not guilty to that, your Honor.

SOL. STROUD: Next we have the defendant Jerry Jacobs, 72 Cr 1662 the defendant Jerry Jacobs is charged in the bill of indictment with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: He enters a plea of not guilty.

SOL. STROUD: And in case number 72 Cr 1664 the defendant Jacobs is charged in a bill of indictment with burning property with an incendiary device.

MR. FERGUSON: Mr. Jacobs enters a plea of not guilty to that, your Honor.

SOL. STROUD: In case number 72-Cr 1665 the defendant Willie Earl Vereen is charged in a bill of indictment with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: Mr. Vereen pleads not guilty to that charge.

SOL. STROUD: In case number 72-Cr 1667 the defendant Vereen is charged in a bill of indictment with burning property, Mike's grocery store building, with an incendiary device.

MR. FERGUSON: Mr. Vereen pleads not guilty.

SOL. STROUD: In case number 72-Cr 1668 the defendant James McKoy is charged in a bill of indictment with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: Mr. McKoy pleads not guilty.

SOL. STROUD: And in case 72-Cr1670 the defendant McKoy is charged in a bill of indictment with burning property, Mike's grocery store building, with incendiary devices.

MR. FERGUSON: Mr. McKoy pleads not guilty to that charge.

SOL. STROUD: In case number 72-Cr1653 the defendant Benjamin Franklin Chavis is charged with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: The defendant Chavis pleads not guilty to that charge.

SOL. STROUD: In case number 72-Cr1655 the defendant Chavis is charged with burning property, Mike's grocery store building, with incendiary devices.

MR. FERGUSON: Mr. Chavis pleads not guilty to that charge.

SOL. STROUD: In case number 72-Cr1671 the defendant Reginald Epps is charged in a bill of indictment with conspiring to assault emergency

personnel with deadly weapons.

MR. FERGUSON: Mr. Epps pleads not guilty to that charge.

SOL. STROUD: And in case number 72 Cr1673 the defendant Epps is charged with burning property, Mikes grocery store building, with incendiary devices.

MR. FERGUSON: Mr. Epps pleads not guilty to that charge.

SOL. STROUD: In case number 72-Cr1674 the defendant Wayne Moore is charged in a bill of indictment with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: Mr. Moore enters a plea of not guilty to that charge.

SOL. STROUD: And in case number 72-Cr1676 the defendant Wayne Moore is charged in a bill of indictment with burning property, Mikes grocery store building, with incendiary devices.

MR. FERGUSON: Mr. Moore pleads not guilty to that charge.

SOL. STROUD: In case 72 Cr 1677 the defendant Joe Wright is charged in a bill of indictment with conspiring to assault emergency personnel with deadly weapons.

MR. FERGUSON: Mr. Wright pleads not guilty.

SOL. STROUD: And in case number 72-Cr1679 the

defendant Wright is charged in a bill of indictment with burning property, Mike's grocery store building, with an incendiary device.

MR. FERGUSON: Mr. Wright enters a plea of not guilty to that charge.

SOL. STROUD: In case number 72-Cr13168 the defendant Ann Shepard is charged with being an accessory in a bill of indictment with being an accessory before the fact of the burning of Mike's grocery with incendiary devices.

MR. HUNEVOL: Mrs. Shepard pleads not guilty, your Honor.

SOL. STROUD: The State moves that these cases be consolidated for the purpose of trial.

MR. HUNEVOL: No objection.

MR. FERGUSON: No objection.

THE COURT: Motion is allowed. Cases are consolidated for trial.

Members of the jury, it is about 18 minutes 'til 5 o'clock. You are all prospective jurors in this case. I must tell you now and I'll repeat this again. You may not discuss this case among yourselves or with anyone else. You may not investigate or attempt to obtain additional information outside the courtroom. It is highly improper for you to attempt to do so. You are instructed not to read, view or listen

to any report in the newspaper, radio or television on the subject of this trial. Do not permit anyone to read or comment upon it to you or in your presence. These instructions are orders which you must follow. It may become necessary from time to time for the Court to question you to make sure that you have followed these orders. It is important that you keep your minds open and be fair and impartial and free from bias or sympathy. And, as I told you this morning before recess, members of the jury, when you go from the courtroom please do not linger in the hallways and when you come back in the morning please do not linger in the hallways but come immediately to your seats and remain there until court opens and be very careful not to talk with anyone about anything about the courthouse and certainly do not talk to anyone or allow anyone to talk to you about these cases and do not talk among yourselves about these cases. And, as I told you before recess, if anyone should attempt to talk to you about these cases tell them that you may be on the jury, that you are a prospective juror and that you cannot talk to them about these cases. If they should insist on talking to you about these cases take their names and when you arrive to-

morrow morning bring that name to this Court. Do all of you members of the jury understand these instructions? All right now, members of the jury, I will take a recess in a few minutes. But for the time being now you go to wherever you might be going. You may be excused. Everybody else please remain here. You go and come back tomorrow morning at 9:30.

(The prospective jurors left the courtroom.)

THE COURT: Is there anything else that we need to take up this afternoon, gentlemen?

Take a recess until tomorrow at 9:30.

(The Court recessed at 4:54 P M.)

September 12, 1972

9:40 A M.

THE COURT: Would you call 12 jurors in the box?

Juror #1 - Henry Allison Croom (W)

Juror #2 - Bunion Johnson, Jr. (W)

Juror #3 - Joseph Bernice Carter (W)

Juror #4 - Edward Dennis Atkinson (W)

Juror #5 - Gladys L. Waggstaff (W)

Juror #6 - Andrew James Jacobs (B) ✓

Juror #7 - E. B. Dixon (W)

Juror #8 - James Dixon (B) ✓

Juror #9 - Gretchen E. Simmons (W)

Juror #10 - Willie David Walker (B) ✓

witnesses; of the lawyers and of the judge. It is equally true of jurors. The first step in any trial is the selection of the jury. This is important because the State of North Carolina and the defendants are entitled to jurors who approach these cases with open minds and agree to keep their minds open until a verdict is reached. Jurors must be as free as humanly possible from bias, prejudice or sympathy and must not be influenced by preconceived ideas either as to facts or as to the law. Although you may be qualified to serve as a juror there may be something that could disqualify you in these cases or make it embarrassing for you to serve. During this first step the Court and counsel will ask you questions. These questions are not designed to pry into your personal affairs but to discover if you have any knowledge of these cases; if you have any preconceived opinion that you cannot lay aside or if you have had any experiences that might cause you to identify yourself with either party. These questions are necessary to assure each party an impartial jury. During the first step in the procedure jurors may be excused by the Court for cause if there is a valid reason why a juror cannot serve. In addition counsel on either side may

excuse a limited number without giving any reason for doing so. Now, members of the jury, during this trial the lawyers present the evidence according to the rules; the judge enforces the rules and determines what evidence may be admitted. The trial concludes with the arguments of counsel and the instructions of law by the Court. Thereafter you deliberate on the verdict. The judge is responsible for the instructions of law. At this point you are not expected to know the law. I'll not permit counsel to question you about the law. However, counsel may ask whether you will accept and follow the law as given by the Court. At this time I'll tell you a few preliminary things about the law in a criminal case. You will receive all the law as it applies to this case at the conclusion of the evidence and the arguments.

Now, members of the jury, the defendants have been placed upon trial and are tried together. That is to say, the bills of indictment against these defendants have been consolidated for the purpose of trial and they are being tried together. Upon the call of the cases for trial the defendants in open court through their counsel entered a plea of not guilty

as to each of the charges pending against them and by such plea of not guilty there is drawn upon the defendants what is known as the common law presumption of innocence which presumption remains with the defendants throughout the trial and is not removed and cannot be removed except by and until an adverse verdict of guilty is returned by you, the jury. You cannot return a verdict of guilty as to each or either of the defendants of the crimes charged in the bills of indictment or in either of the bills of indictment except and unless and until the State shall have satisfied you of his or their guilt and beyond a reasonable doubt.

Now, members of the jury, I have spoken of a reasonable doubt. A reasonable doubt is not a vain, imaginary or fanciful doubt. It is a sane and rational doubt. It is a doubt based on common sense. When it is said that the jury must be satisfied of the defendants' guilt beyond a reasonable doubt it is meant that they must be fully satisfied or entirely convinced or satisfied to a moral certainty of the truth of the charge. If after considering, comparing and weighing the evidence the minds of the jurors are left in such condition that they cannot say that they have an abiding faith

to a moral certainty in the defendant's guilt, then they have a reasonable doubt. Otherwise, not.

So, members of the jury, the law is that the defendants and each of them are presumed to be innocent. Each of you to be qualified to serve as a juror must be able to say to yourself that at this time each of these defendants are innocent. This presumption remains with each defendant until the jury selected to hear and try these cases is convinced from the facts and the law beyond a reasonable doubt of the guilt of the defendant. The burden of proof is on the State of North Carolina to prove each and every one of the essential elements of the crime as set forth in the indictments beyond a reasonable doubt.

Now, members of the jury, in order to determine if the State has established all the essential elements beyond a reasonable doubt the jury must consider the credibility of the witnesses and the weight of the evidence. The indictment is not evidence. It is merely a form used to notify the defendant that he is accused of crime. The jury cannot consider the indictment or the fact that it has been

returned by the grand jury as evidence for any purpose.

Now, members of the jury, as sole judge of the facts, the credibility of the witnesses and the weight of the evidence - I realize "credibility" is not a term you use in every day life. You don't talk about credibility of your friends but it has a specific meaning. Credibility means believability or truthfulness of the witnesses. To determine credibility and the weight of the evidence the jury applies the test of truthfulness witnesses use in every day life. These tests include the appearance of the witness on the witness stand; his manner of testifying; the reasonableness of the testimony; the opportunity he had to see, hear and know the things concerning which he testified; his accuracy of memory, frankness or lack of intelligence, interest and bias, if any, together with all the facts and circumstances surrounding the testimony. Applying these tests the jurors assign to the testimony of each witness such weight as they deem proper. Jurors are not required to believe the testimony of any witness. They may believe or disbelieve all or any part of the testimony of any witness. It is the

SOL. STROUD: Yes, sir. As prospective witnesses for the State they are as follows. Some are here seated at the table is Mr. W. C. Brown, who is an investigating officer in the case. Behind me here is Mr. Clarence Fredlaw of the Wilmington Police Department and who is a prospective witness in the case. Mr. Allen Hall of Wilmington who will appear for the State; Mr. Jerome Mitchell of Wilminston who will appear for the State and Mr. Curtis Register who is with the State Bureau of Investigation who is a prospective witness in the case. I will read the names of those who will appear for the State who are not here at this time.

THE COURT: We'll go ahead with these that are here now. Members of the jury, the State of North Carolina has informed the Court that some of the witnesses are police officers for the State of North Carolina. Does any member of the jury know either of these police officers?

(No answer) Do you have any prejudice or bias for or against police officers? If so please raise your hand. (No response) Are you or is any member of your family related in any way to any member of any law-enforcement agency? If so please raise your hand. This includes police officers, deputies, constables or security

officers of private corporations. Are any of you related by blood or marriage to either of these persons? Have any of you had any unpleasant experiences with an officer? If so please raise your hand. (No response) Are any of you connected in any way with any person I have named by reason of family relationship, either by blood or marriage, by close social or club membership? If so please raise your hand. (No response) Do any of you or your spouses have any action in which the State of North Carolina is a party? Or any which any attorney in this case is serving as an attorney in such action? (No response) Have any of you served as a juror in any case in this county during the past two years? If so, please raise your hand. (No response) Have any of you formed or expressed an opinion as to the guilt or innocence of either of the defendants in these cases? If so, please raise your hand. The gentleman on the front row. I do not want to know what your opinion is. I want to know what information you arrived at that opinion. I

JUROR NO. 7: I work in Wilmington and what I seen going on and what I know and what I read I don't approve of it and I can't hear good either.

THE COURT: Have a seat. The gentleman in the

back, what information do you have to base your opinion on? Where did you obtain the information?

A JUROR NO. 1: I have kept up with it on the television and newspaper is all.

THE COURT: Do I understand and the question I asked you is have you formed or expressed an opinion as to the guilt or innocence of either of these defendants and you are telling this court now that you have arrived at an opinion by what you have seen in the paper and read and what you heard on television? Are you telling the Court that?

A No, sir.

EXAMINATION BY THE COURT:

Q You did not understand my question, did you?

A No, sir; I didn't.

Q Have a seat, sir. Was there anyone else?

A (Juror 7) I worked in Wilmington for the last past 10 years and what I have seen.

Q On this occasion of the matters charged in these indictments, <sup>I was not</sup> were you a witness to any of that?

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

Q Are you telling this Court you have formed and expressed an opinion as to the guilt or innocence of these defendants just because you worked in Wilmington?

A Well what I have seen.

Q ~~You know nothing about this case, do you?~~

A ~~No, sir.~~

Q But you are willing to form and express an opinion on what you have seen, sir? Are you telling the Court that?

A Maybe I misunderstood.

Q Is there anyone else?

(No answer)

Q Have any of you a prejudice or bias against the State of North Carolina which would prevent you from rendering a fair and impartial verdict in this case? If so, please raise your hand.

(No answer)

Q Have any of you a prejudice or bias against either of the defendants which would prevent you from rendering a fair and impartial verdict in this case? If so please raise your hand.

(No answer)

Q Have any of you a partiality for the State of North Carolina or for either of the defendants in this case which would prevent you from rendering a fair and impartial verdict? If so please raise your hand.

(No answer)

Q Do any of you know of any reason of your own that would prevent you from being a fair and impartial juror in these cases? If so please raise your hand.

(No answer)

Q Is there any reason why any of you would not be willing to follow the law as given you in this case by the Court? If so please raise your hand.

(No answer)

Q Now, ladies and gentlemen of the jury, there are a few personal factors which we usually explore to determine qualifications. This includes 1. your residence, length of residence in this county; 2. marital status; 3. employment and 4. members of your family. So I will call upon each prospective juror started with the chair number 1. That is the first row on the first row to my right and ask for this information.

SOL. STROUD: I believe number 1 starts at the back.

*Juror No. 1*

~~Q Your residence please, sir.~~

~~A Rocky Point.~~

~~Q The length of residence in this County?~~

*I have lived there*  
~~A All my life.~~

~~Q Your marital status?~~

*I have been*  
~~A 20. Married 20 years.~~

~~Q Your employment?~~

*Dama*  
~~A Mail carrier.~~

~~Q And members of your family?~~

*There is*  
~~A Just me and my wife.~~

~~Q Would you have a seat, sir? The second gentleman, your residence?~~

Juror No. 2  
My residence is Willard, County.

*I have*  
~~Q How long have you lived in this County?~~

~~A All my life.~~

~~Q What about your marital status?~~

*I have been married.*  
~~A About 17 years.~~

~~Q Where are you employed?~~

~~A I works on the farm. I work for John Ferry.~~

~~Q How many members do you have in your family?~~

~~A Ain't but two of us.~~

~~Q Would you have a seat? The next gentleman, your resi-~~

Juror No. 3  
My residence is Hampstead.

*I*  
~~Q How long have you lived here?~~

~~A All my life.~~

~~Q Your marital status?~~

*I have been married.*  
~~A 11 years.~~

~~Q Your employment?~~

*I am*  
~~A Self employed right at the moment. Just started  
28th of last month.~~

*There are 4*  
~~Q Members of your family?~~

~~A Four of us.~~

~~Q Would you have a seat, sir? The next gentleman,~~

Juror # 4  
My residence is Hampstead.

~~Q How long have you lived in this County?~~

~~A All my life.~~

*I am*  
~~Q And your marital status? You are married?~~

~~A Yes, sir.~~

~~Q Your employment?~~

*I am*  
~~A~~ Retired civil service worker.

~~Q You were in what work before you retired? *I was a*~~

~~A~~ Carpenter, Camp Lejeune.

Q Members of your family?

A My wife with me now! Three children all married and gone.

~~Q Would you have a seat? Ma'am, your name please?~~

*juror #5*  
~~A~~ *My name is*  
Gladys Wagstaff.

~~Q Your residence?~~

*I live*  
~~A~~ Here in Burgaw, Route 2.

~~Q You have lived in this County - ?~~

~~A~~ All my life.

~~Q Your marital status?~~

*I have been married*  
~~A~~ 37 years.

*I am*  
~~Q And are you employed outside the home?~~

~~A~~ Yes.

~~Q Where?~~

*at*  
~~A~~ The Electronic plant in Burgaw.

Q Any members of your family?

A My husband and I.

~~Q The next gentleman, what is your name?~~

*My name is*  
~~A~~ Andrew Jacobs.

~~Q~~ ~~Your residence?~~ *is*

~~A~~ Watha.

~~Q~~ ~~How long have you lived in this County?~~

~~A~~ 24 years.

~~Q~~ ~~Your marital status?~~

~~A~~ *I am* Single.

~~Q~~ ~~And your employment?~~

~~A~~ *I am not employed* Nowhere right now.

~~Q~~ ~~Where did you work last?~~ *ed*

~~A~~ Benson, North Carolina.

~~Q~~ ~~What kind of work was that?~~

~~A~~ *I was a* Fork lift operator, *for*

~~Q~~ ~~For what company?~~

~~A~~ Cobles.

~~Q~~ ~~Are you living with your people?~~ *I am* *right now.*

~~A~~ Right now I am.

Q Would you have a seat? The gentleman, I believe you say you are hard of hearing. Is that right?

A Yes, sir.

~~Q~~ ~~Let me ask you these questions. Where do you live?~~ *I*

~~A~~ Rocky Point.

~~Q~~ ~~How long have you lived in this County?~~

~~A~~ I have been up here 31 years.

~~Q~~ ~~What about your marital status? Are you married?~~ *I am*

~~A~~ Yes, sir.

~~Q~~ *I* Live with ~~your~~ *my* wife?

~~A~~ Yes, sir.

~~Q~~ Where are you employed? *I am*

~~A~~ Soya Sea Food, Wilmington.

~~Q~~ How many members do you have in your *my* family? *There are 5*

~~A~~ Five.

~~Q~~ Are they living at home?

~~A~~ No, sir, they are not living at home, They are married.

~~Q~~ The next gentleman?

*My name is*  
~~A~~ James Dixon.

~~Q~~ Where do you live?

*I live in*  
~~A~~ Maple Hill.

~~Q~~ How long have you lived in this County?

~~A~~ Since '35.

~~Q~~ And your marital status? *I am*

~~A~~ Married.

~~Q~~ And your employment? *I am*

~~A~~ Camp Lejeune.

~~Q~~ Members of your family?

~~A~~ Me and my wife.

~~Q~~ Would you have a seat? The lady, your name, please?

*My name is*  
~~A~~ Gretchen Simmons.

~~Q~~ Your residence? *My*

~~A~~ Hampstead.

~~Q~~ And you live in this County?

~~A~~ Yes.

~~Q~~ And your marital status?

~~A~~ I am  
Single.

Q Your employment?

A Topsail High School.

~~Q~~ You are a teacher?

~~A~~ I am a  
Teacher's Assistant at Topsail High School.

~~Q~~ Members of your family?

~~A~~ I  
Have two brothers and two sisters, but they are not  
living at home.

Q Next gentleman, you residence, sir?

A Rocky Point.

~~Q~~ How long have you lived in this County?

~~A~~ 61 years.

~~Q~~ Your marital status?

~~A~~ Yes, <sup>I have</sup> sir, been married 41 years.

~~Q~~ Your employment?

~~A~~ I work with  
Timme Corporation.

Q And the members of your family? Are there other  
members of your family living at home?

A I and my wife, my son and his wife.

Q Thank you, sir. The next lady.

A Excuse me, Mr. Judge. I also have a church I have  
been pastoring about 12 years, 12th and Queen Street  
in Wilmington.