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MR. HUNEVOL: Motion to strike.

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

Q Did he say anything about policemen and firemen who might come to Mike's Grocery store?

MR. FERGUSON: Objection to the leading.

MR. HUNEVOL: Objection.

THE COURT: Objection sustained as to the leading.

Q What else, if anything, did he say?

A He told us about policemen whenever they come there to shoot them, to kill them.

MR. FERGUSON: Objection.

THE COURT: Motion overruled. (*Exception No. 2*)

A Whenever they came to the fire.

Q ~~What fire?~~

A ~~The fire at Mike's Grocery.~~

Q ~~Which of the defendants were there during the time that he was telling all this?~~

A ~~All of them.~~

Q ~~Were there any other people present?~~

A ~~Yes, sir.~~

Q ~~About how many people (were in the church at this time?)~~

A ~~Approximately 95 or over a hundred.~~

Q ~~And where was Chavis during the time that he was talking?~~

A ~~He was standing in front of the pulpit talking~~

over the P A system.

~~Q And where were you?~~

A I was standing up there where he was.

Q And what was the age range of the people that were in the church at this time, if you know?

A From 8 years old on up.

Q During the time that he was talking, at this point did he make any other statement of any kind?

MR. BALLANCE: Object.

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

A He made a statement that we were going - that the police station was run by Klans add that going to have somebody to go up there to find out the shift that they come on and the shift that they go off in order to blow it up.

MR. BALLANCE: Motion to strike.

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

A That we were going to show these crackers that we mean business.

Q Now did he say "blow it up" with anything?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Objection sustained as to the leading.

Q What, if anything, did he say about blowing it up.

MR. BALLANCE: Object to that.

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

A Using the dynamite.

Q What are crackers?

MR. FERGUSON: Objection.

MR. BALLANCE: Objection.

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

A Those are considered as white people.

~~Q What occurred then, if anything?~~

~~A~~ That is whenever we went outside that is whenever Marvin Patrick got on the P A system and said he know'd the ones who could shoot best.

~~Q Did he say anything else at this time?~~

~~A~~ Then he called out Connie Tyndall's name on the P A system.

Q Now before going outside of the church did any of the other defendants say anything?

A George Kirby got up and said -

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A George Kirby got up there and said, "Get one of the Pigs for me." And then Ann Shepard got up there and said, "I think it is right what you all are doing. Y'all should show them you mean business."

MR. FERGUSON: Objection; motion to strike.

MR. HUNEVOL: Objection; motion to strike.

THE COURT: Overruled; motion denied. *(Exception No. --)*

~~Q~~ ^{the} ~~Where was defendant Shepard during the time defendant Chavis was talking?~~

~~A~~ She was standing up there by all of us.

~~Q~~ ~~By all of us where?~~

~~A~~ Up there by the pulpit.

Q Where was she at the time she made the statement you just referred to?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A She made it over the P A system.

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

Q Did they say anything else at this time?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A No, sir.

Q Did any of the other defendants at this time get up and say anything other than the ones that you have referred to?

MR. BALLANCE: Object to leading.

THE COURT: Overruled. (Exception No. —)

A No, sir.

~~Q~~ ~~What, if anything, occurred then?~~

~~A~~ Then myself and Ben Chavis walked out on the porch of the church.

~~Q Was anything said at this time?~~

A Chili was calling out the ones to go out.

~~Q (Marvin Patrick?)~~

~~A Right.~~

Q And when you and the defendant Chavis went out on the porch of the church, which porch are you talking about?

A The front porch of the church.

~~Q Were any of the other defendants present at that time on the front porch of the church?~~ ^{None} ^{were}

~~A No, sir.~~

Q What, if anything, was said between you and the defendant Chavis when you were on the porch of the church?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A He told me that he wanted me to be the watchout and that we were going to go up to 6th Street to check and see if there was any cops in the area before we go to Mike's.

MR. HUNEVOL: Move to strike.

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

Q Was anything else said at this time, if you recall?

A The only thing that was said, he repeated he would

look out for me and I would look out for him.

Q Then what, if anything, did you and the defendant Chavis do?

MR. HUNEVOL: Objection.

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

A Then we went back to the church.

Q After you were on the porch of the church what, if anything, did you do?

A We went -

MR. BALLANCE: Object.

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

A We went to the corner of 6th and Nun.

~~Q Would you come to the diagram, please, and point out where you were and where you went to see.~~

~~A We went to the corner right here. (Pointing.)~~

~~Q Where is the church?~~

~~A The church is right here.~~

Q What, if anything, did you do up at that corner?

MR. HUNEVOL: Objection.

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

Q Myself and Chavis looked down there side of the street and this side of the street.

Q For what purpose?

A To see if there was any cops whatsoever.

MR. HUNEVOL: Objection.

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

~~Q~~ ^{We not} Did you see any?

~~A~~ No, sir.

~~Q~~ Then what, if anything, did you do?

~~A~~ Then we came back to the church.

~~Q~~ Thank you. If you will come back up to the stand please:

(Witness returns to the witness stand.)

Q Now at the time that you went up to the corner of 6th and Nun Street there, did you have a weapon?

MR. HUNEVOL: Objection.

MR. BALLANCE: Object to the leading.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q What kind of weapon did you have?

A .38 revolver.

MR. HUNEVOL: Objection; move to strike.

THE COURT: Overruled; motion to strike denied.

Q That is the one that Chavis gave you?

(Exception No. —)

A Yes, sir.

MR. FERGUSON: Objection.

THE COURT: Objection sustained as to the leading.

~~Q~~ And did ^{had automatic 45 pistol} the defendant Chavis have a weapon when you ~~went~~ went up to 6th and Nun Street?

~~A~~ Yes, sir, he had an automatic .45.

~~Q~~ .45. What?

~~A~~ Pistol.

~~Q~~ How ^{we} when you returned to the church where ~~did you~~
~~go?~~

~~A~~ We all went on the inside and then Chavis told -

~~Q~~ Chavis told what?

~~A~~ Told them to come on.

~~Q~~ ... Told who to come on?

~~A~~ The ones that went out to burn Mike's.

MR. FERGUSON: Move to strike that.

MR. HUNEVOL: Objection; move to strike.

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

~~Q~~ At the time you went back to the church from 6th Street and Nun Street with the defendant Chavis, which of these defendants, if any, were at the church?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. -)

~~A~~ All of them.

~~Q~~ After the defendant Chavis made the statement to come on, which, ^{all} if any, of the defendants came on?

~~A~~ All of them, all (except Ann Shepard.)

~~Q~~ All except Ann Shepard?

~~A~~ Yes.

~~Q~~ And where was she at that time?

~~A~~ She was still in the church.

~~Q~~ After the defendant Chavis made the statement "Come on", ~~what, if anything, occurred?~~

~~A~~ Then they came out and then we went behind the church.

~~Q~~ By "they" who do you mean?

~~A~~ All of them, all except Ann Shepard.

~~Q~~ All of the -

~~A~~ Defendants except Ann Shepard.

Q Let me ask you this at this point. When the defendants, all except Ann Shepard, came out of the church, did any of them have weapons?

A Yes, sir.

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

~~Q~~ All of them?

~~A~~ Yes, sir.

~~Q~~ Then where did you go?

~~A~~ Then we went through the driveway between the church and the house to the back of the church.

~~Q~~ Now describe the back of the church and the back of Rev. Templeton's house, please.

~~A~~ The back of Rev. Templeton's house have steps running down, wooden steps, and the back of the church it have a white, sort of a beige air conditioning unit where we had the firebombs.

~~Q Go ahead.~~

~~A~~ And it have a windows up on the side of the church and the back, and sitting in the middle ^{of the back of the} is a door ^{church} that goes down in the basement of the church.

~~Q Sitting in the middle of where?~~

~~A The middle of the back of the church.~~

Q Now behind Rev. Templeton's house and the church what was in the area back in there?

A Well it was trees and bushes.

(State's Exhibits 12, 13, 14 marked for identification.)

Q Mr. Hall, I hand you what has been marked for identification as Stat'e Exhibit number 12 and ask if you can identify that, please.

A Yes, sir; this is a photo of the church and Rev. Templeton's house and the driveway that goes to the back of the church.

~~Q~~ Now ^{is} that photograph ^{is} a fair and accurate representation of the church and Rev. Templeton's house and the driveway that goes between those two buildings as it was on February 5 and 6, 1971?

~~A~~ Yes, sir; but the trees wasn't that thick.

~~Q~~ What do you mean by that?

~~A~~ Because it was during the winter.

Q I hand you what has been marked for identification

as State's Exhibit number 13 and ask if you can identify that, please.

A Yes, sir. This is the back of Rev. Templeton's house and the Gregory Congregational Church where you can see the air conditioning unit and the two windows at the back of the church and the door and the windows on the side.

Q ~~Does~~ ^{does} that photograph accurately and fairly portray the rear of the Gregory Congregational Church and Rev. Templeton's house as it was on February 5 and 6, 1971? ↓

A ~~Yes, sir;~~ all but the trees.

Q ~~What about the trees?~~

A They have grown thick because it was winter at that time.

Q Now I hand you what has been marked for identification as State's Exhibit number 14 and ask if you can identify that.

A Yes, sir. This is the side of the church and the back steps of Rev. Templeton's house, and you can also see the path that come out to Mike's Grocery behind the church.

Q ~~Does~~ ^{does} that photograph accurately and fairly portray the rear of Gregory Congregational Church and Rev. Templeton's house on the days of February 5 and 6,

1971?

~~A Yes, sir: all except the trees.~~

~~Q What about the trees?~~ *are*

~~A These are too thick.~~

~~Q The trees are too thick in the photograph?~~

~~A Right.~~

SOL. STROUD: May it please the Court, the State will move at this time that these photographs be admitted into evidence as State's Exhibits number 12, 13 and 14.

MR. FERGUSON: Object.

THE COURT: Members of the jury, State's Exhibits 12, 13 and 14 offered by the State and accepted by the Court are offered for the purpose of illustrating and explaining the testimony of the witness and for no other purpose. If you, the jury find that they do illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence. *(Exception No. —)*

~~Q Mr. Hall, after you went down the driveway between the church and Rev. Templeton's house, where did~~

~~you go?~~
Swer
To the back of the church.

~~Q Where at the back of the church?~~

~~A~~ At the air conditioning unit where we had the firebombs.

all of the defendants
~~Q~~ *me* who went back there with you?

~~A~~ All of the defendants; all except Ann Shepard.

~~Q~~ And what, if anything *were* was back there at that time?

~~A~~ Firebombs and rags and gasoline.

~~Q~~ Where were they?

~~A~~ *They were* Located on the air conditioning Unit.

~~Q~~ On top of it?

~~A~~ Yes, sir.

~~Q~~ Using State's Exhibit number 13, would you point out where you were at that time and where the items were that you have described?

~~A~~ The firebombs located on top of the air conditioning unit right up there. (Indicating to the jury.)

~~Q~~ Where were you at that time?

~~A~~ *I was* Right back here.

~~Q~~ Where were the other defendants?

~~A~~ All of us was right back here.

~~MR. FERGUSON: Like to see what he is pointing out.~~

~~Q~~ Would you point that out for Mr. Ferguson, please?

~~A~~ Right there at the air conditioning unit, the top of it.

~~Q~~ What, if anything, occurred there at the rear of the

church at that time.

MR. HUNEVOL: Objection.

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

A Then myself and Ben Chavis started passing out firebombs.

~~Q Now again would you describe what a firebomb is?~~

~~A A firebomb, it contains gasoline, a rag, and you put the gas in a soda bottle, whiskey bottle or wine bottle.~~

Q What is the purpose of rag?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Objection sustained.

Q Who did you and the defendant Chavis pass firebombs to?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A To Marvin Patrick, James McKoy, Jerry Jacobs, Connie Tyndall and Willie Vereen.

~~THE COURT: Would you name them again please?~~

~~A Marvin Patrick, James McKoy, Jerry Jacobs, Connie Tyndall and Willie Vereen.~~

Q Which of the other defendants, if any, were present at that time?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A All of them, all except Ann Shepard.

Q After the firebombs were passed out, as you have described, what occurred then?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Then Chavis told us to come on and we went through the path.

~~Q What path?~~

~~A The path that lead from behind the church dome between the 4th and the third house facing 6th Street.~~

Q Before you went down the path, as you have described, was anything said by any of the defendants?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Just Chavis. He told me to get a can of gasoline, to pour the gasoline in front of the store on the doorway in case some of the firebombs drop out the top of the store building.

~~Q Where were you (when the defendant Chavis said this?)~~

~~A I was at the back of the church.~~

~~Q And which, if any, of the defendants were present at that time?~~

~~A All of them.~~

MR. HUNEVOL: Objection.

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

A All of them, all except Ann Shepard.

Q Let me ask you this at this point, Mr. Hall.

Prior to February 5 and 6, 1971, did you know a young black man by the name of Steve Mitchell or Steve Corbett?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A No, sir.

Q ~~Now~~ ^Q On February 5 and 6, 1971, did you have occasion to see him?

A ~~Yes, sir.~~

Q ~~Where?~~

A At the Gregory Congretational Church.

Q Did you see him on the evening of Saturday, February 6, the evening that you are describing at this time?

MR. HUNEVOL: Objection.

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

A Yes, sir.

Q ~~Where did you see him?~~

A I saw him at the church and he was also with us at the back of the church.

~~Q He was with you at the back of the church?~~

~~A Yes, sir.~~

Q Did he have a weapon of any kind with him?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Objection sustained. Don't lead him.

Q What, if anything, did he have with him?

MR. BALLANCE: Objection.

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

A He had a shotgun.

Q Had you seen the shotgun that he had prior to seeing it at that point?

MR. FERGUSON: Objection.

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

A Yes, sir.

~~Q Where had you seen it?~~

~~A I had saw it in the church.~~

Q Can you describe the shotgun for me?

MR. FERGUSON: Objection.

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

A Yes, sir. At the barrel of the gun is a split and from the butt there by the clip where you break it open is some black tape around it, electric tape, and on the inside of it where you put the

shell at it is chipped because the bullet was stuck in the gun and we had been prizing in it trying to get it out.

Q When was this that you were prizing in it?

MR. FERGUSON: Objection.

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

A It was on a Saturday.

~~Q~~ Before or ^{we} after you went to the rear of the church?

~~A~~ Before.

Q Was there anything else about the gun that you recall?

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

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

A The butt of the gun had a lot of scars and cuts in it.

Q Was it a single barrel shotgun or double barrel shotgun?

MR. BALLANCE: Object.

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

A Single barrel shotgun.

(State's Exhibit 15 marked for identification.)

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

THE COURT: Yes, sir.

(Conference at the bench.)

Q Mr. Hall, I hand you what has been marked for identification as State's Exhibit number 15 and as if you can identify this for us, please, sir.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A I can identify this by the split right here of the barrel right up in here and by this tape being on here because this right here was split and by (opens gun) right up in here where there was a bullet jammed in it and we had been using sticks prizing in there and knives trying to wedge the bullet out and by punching sticks up the barrel. That is why the barrel is split and it broke off pieces right in here.

Q Whose gun was this or who had this gun?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Steve Corbett.

Q *He* Did he have this gun on the evening that *I was* you were at the rear of the church that *I am* you are now describing?

A ~~Yes, sir.~~

SOL. STROUD: May I display this to the jury, your Honor?

THE COURT: You have not offered it into evidence.

SOL. STROUD: The State would move at this time that this gun be admitted into evidence as Stat'e Exhibit number 15.

MR. FERGUSON: Objection.

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

MR. HUNEVOL: Objection.

THE COURT: Let it be admitted in evidence.

MR. BALLANCE: We can't hear what he is saying to the jury.

SOL. STROUD: I asked them if any of them wanted to see it any closer.

MR. FERGUSON: Object to that.

THE COURT: Objection sustained.

Q After you were at the rear of the church at the airconditioning unit there where firebombs were passed out, what occurred there, please?

MR. BALLANCE: Objection.

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

A After the firebombs were passed out Ben Chavis said that myself and him and Steve Corbett and Willie Earl Vereen would go out front before the rest of them come across the street to Mike's.

~~Q~~ Where did you go ^F from the air conditioning unit?

~~A~~ We went through the path that is behind the church and Rev. Templeton's house and came out between the 4th and 3rd house facing 6th Street

~~Q~~ Where is that in relation to Mike's Grocery store?

~~A~~ Mike's Grocery was sitting at a angle with the path.

~~Q~~ Who went from behind the church over to 6th Street?

~~A~~ All of the defendants, (except Ann Shepard.)

Q Were there any other people with you and the defendants except Ann Shepard at this time?

A All of us except Ann Shepard.

Q What I am asking is were there others besides you and the defendants that you have described?

MR. FERGUSON: Object to the leading.

THE COURT: Overruled.

A Yes, sir.

~~Q~~ How many others were there?

~~A~~ 15 or 30.

Q Do you know any of the others?

A No, sir.

(State's Exhibits 16, 17, 18, 19 and 20 marked for identification.)

MR. FERGUSON: Your Honor, we'd like to be heard.

THE COURT: What did you say, Mr. Ferguson?

MR. FERGUSON: We would like to be heard if the

State proposes to introduce them.

Q Mr. Hall, I hand you what has been marked as State's Exhibit number 16 and ask if you can identify that, please.

A Yes, sir. This here is a ~~photo of the path.~~

Q ~~Is a what?~~

~~A~~ Is a photo of the path that leads from behind the church and Rev. Templeton's house or the back yard and comes out between the third and fourth house.

Q ~~Is that photograph~~ ^{is} a fair and accurate representation of the area behind the church and behind the houses on the east side of 6th Street as it was on February 5 and 6, 1971?

A ~~Yes, sir;~~ but the trees wasn't this thick and there wasn't a fence up there at this time.

Q I hand you what has been marked for identification as State's Exhibit number 17 and ask if you can identify that, please.

A This here is the path where we come out of between the houses, between the house and the house that we come out to where we went to burn Mike's and the fourth house next to it.

Q ~~Is that photograph~~ ^{is} a fair and accurate representation of the path behind the houses on the east side of 6th Street on February 5 and 6, 1971?

A ~~Yes, sir.~~

Q I hand you what has been marked for identification as Stat'e Exhibit number 18 and as if you can identify that, please.

A This is a photo shows the back of the church and the back of Rev. Templeton's house from the path going to 6th Street.

Q ~~Is that photograph~~ ^{is} a fair and accurate representation of the path and the area behind Rev. Templeton's house and the Gregory Congretational Church as it was on February 5 and 6, 1971?

A Yes, sir; but the bushes and trees have growed up.

Q ~~In that photograph?~~

A ~~Yes, sir.~~

Q I hand you what has been marked for identification as State's Exhibit number 19 and ask if you can identify that, please.

A Yes, sir. In this photo is the back of the houses where the path come out to--

Q ~~Come out to what?~~

A ~~Come out~~ to the back of these here houses land it shows there are two houses that was next to the house with the path where the path come out to. It would be this one on this end right here.

Q What houses were those on 6th Street, if you know?

A On the east side of 6th Street.

Q How many houses from the corner of 6th and Ann?

A Fourth and fifth house.

~~Q~~ Is that photograph ^{is} a fair and accurate representation of the two houses you have described and the driveway between those two houses as it was on February 5 and 6, 1971?

~~A~~ Yes, sir; all except the car.

~~Q~~ All except what?

~~A~~ The car.

~~Q~~ What about the car?

~~A~~ The car wasn't there at that time.

Q I hand you what has been marked for identification as State's Exhibit number 20 and ask if you can identify that, please.

A In this photo it shows where the path come out at to the third house, two-story house, and the path come out right here.

~~Q~~ Just describe it, if you will.

~~A~~ The path come out right here beside the third house.

~~Q~~ On what Street?

~~A~~ On 6th Street.

Q Is this photograph a fair and accurate representation of the area there at 6th Street as it was on the evening of February 5 and 6, 1971?

A Yes, sir; all except Mike's and those houses.

Q Pardon?

A Mike's Grocery and the houses was there then.

SOL. STROUD: Your Honor, at this time the State would move that these photographs be admitted into evidence as State's Exhibits number 16, 17, 18, 19 and 30.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Members of the jury, would you retire to the juryroom?

(The jury retired to the juryroom.)

MR. FERGUSON: If your Honor please, we have objected before to the introduction of certain photographs by the State, and we would renew those objections and object to the proposed introduction of the State's Exhibit 16 through 20; and, your Honor, we have several concerns here. One is all of these photographs, according to the first witness that was put on the stand by the State, were taken on April 26, 1972, some year and a half after the incident is alleged to have occurred. At least, the area photographs were taken at that time. Now the State has already introduced by my count approximately 19 photographs and diagrams of various sorts,

all depicting the same area. I think we reach a point here where it becomes prejudicial for the State to prove its whole case in photographs. The witness has described the area. They have drawn diagrams of the area. They have shown area photographs of the area and now they have shown individual photographs of certain portions. I think we have gone beyond the point where it is illustrative of anything and the State is trying to show these photographs and it must be true because the witness says it is there. One of them shows a very official looking person in the background of the house. Some of them shows cars. Some of them show people walking up and down the street. I don't see how any witness can say that these fairly and accurately represent what he saw on February 5 and 6, 1971. There has been testimony that all of this occurred at night, and we object to it; think it is highly prejudicial at this point.

THE COURT: Do you wish to be heard?

MR. HUNEVOL: I concur, your Honor.

THE COURT: Anyone else wish to be heard? Do you wish to be heard, Mr. Solicitor?

SOL. STROUD: No, sir.

MR. FERGUSON: We would make observation to the Court that we see additional stack of photographs on the Solicitor's table. We don't know whether he wishes to introduce them or not.

Your Honor, Allen Hall is on the stand is making "son of a bitch, mother fucking"-

(Sol. stroud stepped in front of Allen Hall.)

MR. HUNEVOL: My client said she observed him.

THE COURT: The Court did not observe this.

We'll take about a 10 minute recess.

MR. FERGUSON: I'd like to call attention that he did the same as he went out of the courtroom.

MR. HUNEVOL: My client said the same thing

MR. BALLANCE: I object, your Honor.

MR. FERGUSON: We would observe to the Court that at the preliminary hearing this witness came off the stand and approached the counsel table in a menacing manner.

(The Court recessed from 11 until 11:10 A.M.)

THE COURT: Let the record show that at the recess and out of the hearing of the jury Mr.

Ferguson and other counsel brought to the attention of the Court that the witness was mouthing at him, that it was not audible, but making words by the use of his mouth.

MR. FERGUSON: Yes, sir.

THE COURT: And the Court has warned this witness, through counsel, not to conduct himself in that way. If he did do so anymore, you have, Mr. Solicitor, warned this witness -

SOL. STROUD: Yes, sir: I have talked to him.

THE COURT: Not to do the things that he was accused of doing anymore. Is that satisfactory, Mr. Ferguson?

MR. BALLANCE: Your Honor, you didn't state who the witness was.

THE COURT: The witness Allen Hall. Is that satisfactory? There was no audible sound, was there?

MR. FERGUSON: That is right.

THE COURT: And I, of course, did not see what you said you saw, and this was out of the presence of the jury.

MR. FERGUSON: Yes, sir.

THE COURT: Mr. Ferguson, you had some other motions I believe.

MR. FERGUSON: Yes, your Honor. We would like for the record to show that prior to the introduction of the shotgun, State's Exhibit 15, that we objected to the introduction of the

gun into evidence on the grounds that the defendants have previously made a motion for production and inspection of evidence and that for physical evidence and that according to our recollection when that matter came before Judge James, inquiry was made by Judge James of the State whether there was any physical evidence, and the State advised that there was none. That is our recollection. I understand the State agrees with that, but we feel that if our recollection is correct and the record of the previous hearing would show that, that the State should be precluded from introducing any physical evidence at this trial and that would include photographs also.

MR. HUNEVOL: Your Honor, I would concur in that objection.

SOL. STROUD: As I recall at the initial trial - I think the defense attorneys will recall this also - that on the first day of that trial there were several written motions made by the defendants, one of those motions was to examine physical evidence. One of those motions was also for the production to the defense of any

favorable evidence. It was to that motion that I responded that I was not aware of any evidence that was favorable to the defendants. When questioned concerning physical evidence, I told Judge James that the State did have physical evidence which the State would present during the trial and that the evidence would be available for the defense attorneys to examine if they wished to do that. Judge James ordered at that time or said at that time, since it was available that they could examine physical evidence and after that there has been no request on their part to examine any physical evidence. That is all the State would have to say.

THE COURT: Well you motion -

MR. FERGUSON: Our motion is to preclude any physical evidence upon the trial because of the State's position previously stated as we understand it.

THE COURT: Motion denied. Anything else?

MR. FERGUSON: We would like to request the Court that the shotgun be placed somewhere where it won't be on counsel table in view of the jury. We feel that is prejudicial.

THE COURT: Overruled at this time.

(Exemption No. —)

(Exemption No. —)

MR. HUNEVOL: I think we would like to and should be allowed to examine any other physical evidence that the State might intend -

MR. FERGUSON: I propose the same.

THE COURT: Do you have any other physical evidence?

SOL. STROUD: Yes, sir.

THE COURT: The motion is allowed that you can examine any other physical evidence that the State may introduce.

SOL STROUD: I'll make it available to them during the lunch recess if that will be satisfactory.

MR. FERGUSON: May we assume no other physical evidence will be introduced prior to the lunch recess?

THE COURT: If there is, I will give you opportunity to examine it before it is introduced. Bring the jury in.

(The jury returned to the jurybox.)

ALLEN HALL, returned to the stand as a witness for the State, being already duly sworn, testified as follows:

DIRECT EXAMINATION BY SOL. STROUD Continues:

SOL. STROUD, your Honor, as I recall I had

last moved -

THE COURT: I believe you had moved to introduce these photographs into evidence.

SOL. STROUD: Yes, sir.

THE COURT: State's Exhibit 16, 17, 18, 19, 20.

SOL STROUD: Yes, sir.

THE COURT: Members of the jury, State's Exhibit numbers 16, 17, 18, 19, 20 are offered by the State and received into evidence for the purpose of illustrating and explaining the testimony of the witness if you, the jury, find that it does illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence.

SOL. STROUD: May I pass them among the jury?

THE COURT: Yes, sir.

Q Mr. Hall, with regard to State's Exhibit number 16 here, what does that show?

A This here shows the back yard of the church and the path leading to the houses.

~~Q To what houses?~~

~~A To the houses facing 6th Street.~~

Q And this photograph, what does that show? That is number 17.

A This here house shows the path going between the fourth and third house.

Q What view is this here in State's Exhibit number 18?

A This shows the back of the church and the back of Rev. Templeton's house from the path.

~~Q And this ^D photograph, please, number 19?~~

~~A This here shows the fourth and third house where the path come out at.~~

~~Q And State's Exhibit, number 20, what does it show, please?~~

~~A This shows the front of the third house where the path comes between the driveway and it shows where we came out at and where Mike's Grocery used to be standing at.~~

(Photographs passed to the jury.)

Q Mr. Hall, I hand you State's Exhibit number 2 and ask if you can point out on this photograph please the path that you have described and the third and fourth house that you have described that it leads to.

A The path would lead from right back in here behind the church. At that time these trees wasn't as thick. You could see from the church all the way out here to this street. The path lead from here and goes right-between here. This here is the third house and this one right here is the fourth right there.

~~MR. FERGUSON: We couldn't see that.~~

~~Q Would you point that out for Mr. Ferguson, please?~~

~~A The path leads from right back up in here. It is the back of the church and Rev. Templeton's house. The bushes wasn't there. You could see from here all the way out to Ann Street. The path lead right here between the fourth and third house. This will be the third house coming from Ann Towards 6th, and this would be the fourth house sitting sort of further up.~~

Q Would you come to the diagram here for just a moment, please? With this magic marker, would you indicate where the path goes to that you have described, please?

A The path come from right back in here.

(Makes drawing.)

A Right down here.

~~Q If you will, come back up to the stand, please.~~

(Witness returns to the witness stand.)

~~Q After you ^{we} left the rear of the church, ^{the} where did you say you went?~~

~~A Went between the path and stopped in the driveway where the path come out to between the third and fourth house.~~

Q Which of these defendants were there at that time,

if you know?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A All except Ann Shepard.

Q And were there any other persons present at that time other than the people you have just described?

A Yes, sir; Steve Corbett.

~~Q~~ ^{No} Any others?

~~A~~ Not that I know.

Q Were there other people there?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exception No. —)

A Yes, sir.

Q Were there other people there whose names you didn't know?

A Yes, sir.

MR. FERGUSON: Object to the leading.

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

~~Q~~ When ^{we} you got between the third and fourth house there on 6th Street, ~~what occurred at that time please?~~

~~A~~ We stopped in between the house and set the firebombs in the driveway and then Chavis told them to get into position.

~~Q~~ Told who?

~~A~~ (Told the ones who had left.)

MR. BALLANCE: Objection.

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

A Joe Wright, Wayne Moore, Reginald Epps and Marvin Patrick to get - and Connie Tyendall - to get into position.

Q Did he say -

MR. BALLANCE: Objection; leading, your Honor.

THE COURT: Don't lead him.

Q Did he say anything else at this time?

MR. HUNEVOL: Objection.

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

A Then he told myself, Steve Corbett, Willie Earl Vereen to come on and go across the street, and Chili told him that he would get them into a position while were going up down the street.

~~Q Who is Chili?~~ *Chili*

A Marvin Patrick.

Q Now what, if anything, did the defendant Chavis say at this time with regard to getting into position?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A He told him to get into position and to stay there until Mike's Grocery started burning and then when the cops pull up into the area



~~Q What about when the cops pull up into the area?~~

~~A Whenever the cops pull up into the area to start shooting.~~

~~Q Who went across the street at this time?~~

~~A Ben Chavis, Willie Vereen, Steve Corbett and myself.~~

~~Q And where were the others at the time you went across the street?~~

~~A They were still standing in the driveway facing 6th Street.~~

Q Now what, if anything, did the defendant Chavis say with regard to your going across the Street at that time?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exception No. —)

A He said that we were going up there to check and see if there were any cops whatsoever down the area.

Q Where did you go across the street?

A We went across the street between the third and fourth house right across to Mike's and walked to Ann Street, and came down Ann.

~~Q Now as you were going across the Street did you have a weapon?~~

~~A Yes, sir. I had a~~

~~Q What did you have?~~

~~A .38.~~

~~Q Did the defendant Chavis have a weapon?~~

~~A Yes, sir.~~

~~Q What did he have?~~

~~A He had .45 automatic.~~

~~Q Did Steve Corbett have a weapon?~~ *did*

~~A Yes, sir.~~

~~Q What did he have?~~

MR. FERGUSON: Objection.

A Yes, sir.

~~Q What did he have?~~

MR. FERGUSON: Objection.

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

A .45.

~~Q Did Willie Earl Vereen have a weapon?~~ *had*

~~A Yes, sir: a rifle.~~

~~Q When you got in front of Mike's Grocery store what, if anything, did Willie Earl Vereen do?~~

MR. FERGUSON: Object.

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

A Whenever we crossed the street and got in front of Mike's when Dhavis told Willie Earl to go behind Mike's and the garage back there between the garage and the store and to wait back there, whenever they come up through that way for him to shoot up through that way.

~~Q Did the defendant Willie Earl Vereen have anything~~

with him besides the weapon that you have described?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Overruled. *(Exemption 1b. —)*

A Two firebombs.

~~Q What, if anything, did he do with the firebombs?~~

~~A~~ He gave them to me after Chavis told me he wanted me to throw the firebombs and Willie Earl to stay behind there.

~~Q Stay behind where?~~

~~A~~ Stay behind Mike's and the garage.

~~Q What, if anything, occurred at this time?~~

~~A~~ Then myself, Ben Chavis and Steve Corbett went up Ann Street towards 5th and Ann.

~~Q And where was Willie Earl Vereen at this time, if you know?~~

~~A~~ He was between Mike's and the garage.

~~Q Would you point out ^T the defendant Willie Earl Vereen^{is}?~~

~~A~~ The one in the blue sweater.

~~Q And would you point out ^T the defendant Chavis ^{is} please?~~

~~A~~ The one with the black suit on.

Q What, if anything, did you do with the firebombs once you received them from Willie Earl Vereen?

A I put them down there in the front at the front of Mike's Grocery down on the pavement, sidewalk.

~~Q~~ ~~Then what, if anything, did you do?~~

~~A~~ Then myself and Chavis and Steve Corbett went down towards 5th Street.

~~Q~~ ~~On what street?~~

~~A~~ On Ann.

~~Q~~ ~~Where did you go down there?~~

~~A~~ ^{We} Went over half of the block.

~~Q~~ ~~What side of the street were you on?~~

~~A~~ On the south side ^{We} of the street.

Q Would you come to the diagram just a moment, please?

(Witness goes to the blackboard.)

Q First of all, would you point out on State's Exhibit number 1 there where you were when you came across the street?

A Whenever I came across the street -

MR. FERGUSON: Object. We are not able to see.

THE COURT: Just a minute, Mr. Ferguson. You may go over to see.

A Whenever we came across the street this here is the third house and this is the fourth and the driveway is right between where we came right across right here in front of Mike's Grocery, where it was Mike's Grocery.

~~Q~~ ~~Then where did you go?~~

~~A~~ Then we went up Ann Street to right up in here.

~~Q~~ ~~Where was Willie Earl Vereen?~~

~~A~~ Willie Earl was right behind Mike's. There was a garage there and this house with the steeple on it.

~~Q~~ ~~What side of the street were you walking on as you were walking on~~ (as ^{we} you were going down toward 5th Street?)

~~A~~ We were walking on the lefthand side of the street.

Q Would you point out on there please?

A Right here.

Q And where were you in relation to the defendant Chavis and Steve Corbett?

A All of us was right beside one another.

Q Would you point that out on the diagram please, as you have just pointed it out here?

MR. FERGUSON: Objection.

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

A We came out right here and we came across the street from Mike's Gro-ery and I set the firebombs right here on the sidewalk of Mike's, and Willie Earl went right behind here, which would be the garage of Mike's and this here would be the house with the steeple on it, and myself, Chavis and Steve Corbett walked all the way up to right here. Steve Corbett was in the street. I was on the sidewalk and Ben Chavis was standing beside the telegram pole which is at the corner.

~~Q Would you come back to the witness stand please?~~

(The witness returns to the witness stand.)

Q Would you describe what was at the corner of 5th and Ann Street please?

A St. Marys Church.

(State's Exhibits number 21, 22, 23, 24 marked for identification.)

MR. FERGUSON: Object.

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

Q I hand you what has been marked for identification as State's Exhibit number 21 and as if you can tell us what that is.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A This is Ann Street and the street that myself, Chavis, Steve Corbett went down and the area that Willie Earl Vereen went behind.

Q Does that photograph a fair and accurate representation of the area that you have described as it was on February 5 and 6, 1971?

MR. FERGUSON: Objection and move to strike the previous answer.

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

A Yes, sir; but Mike's Grocery and the garage was standing at that time.

Q I hand you what has been marked for identification as State's Exhibit number 22 and ask if you can identify that.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

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

A Yes, sir; this here is Ann Street and this is the location where the garage was at and the house with the steeple that was next to it and you could see where Ben Chavis and myself and Steve was standing and St. Marys Church.

MR. FERGUSON: Move to strike.

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

Q Is that photograph a fair and accurate representation of the area you have described as it was on February 5 and 6, 1971?

MR. FERGUSON: Object.

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

A Yes, sir.

Q I hand you what has been marked for identification as State's Exhibit number 23 and ask if you can identify that.

MR. FERGUSON: Object.

MR. HUNEVOL: Object.

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

A Yes, sir; this is Ann Street and it have a brick pavement and here is the telegram pole where Chavis was standing to and the area where Stevè Corbett was standing in the middle of the street and where I was down on the side of the street and St. Marys Church

Q Is that a fair and accurate representation of the area you have described as it was on February 5 and 6, 1971?

MR. FERGUSON: Object. (*Exemption No. —*)

A Yes, sir; all except the car.

Q ~~Except what?~~

A ~~The station wagon.~~

Q ~~What about the station wagon?~~ *wasn't there.*

A ~~I wasn't there.~~

Q I hand you what has been marked for identification as State's Exhibit number 24 and ask if you can identify that please.

A Yes, sir; this here is 5th Street at 5th and Ann, and which Ann Street run across 5th Street and on here you can see the place and the front of St. Marys Church and Father Jone's house.

MR. FERGUSON: Object; move to strike that.

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

Q Is that photograph a fair and accurate representation of the area you have described as it was on February

5th and 6th, 1971?

MR. FERGUSON: Objection.

A Yes, sir; but the trees was not that thick.

SOL. STROUD: May it please the Court, the State would move that these four photographs be admitted into evidence as State's Exhibits number 21, 22, 23 and 24.

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

THE COURT: Members of the jury, State's Exhibits 21, 22, 23, 24 are offered by the State and received in evidence for the purpose of illustrating and explaining the testimony of the witness if you, the jury, find that they do illustrate and explain the testimony of the witness and for no other purpose. They are not substantive evidence. *(Exception taken)*

Q Would you point out in State's Exhibit number 21, please, where Willie Earl Vereen would have been on the evening that you have described?

A Willie Earl Vereen would have been standing right back in here between the house and the garage and Mike's Grocery at the time. (Indicating)

~~A~~ Mike's was right here. Then it was this here house. Willie Earl was between Mike's Grocery and

the garage in the back area right in here, but it wasn't that thick because it was during the winter and the trees had shed.

~~Q Would you point that out for Mr. Ferguson to see it. I'm not sure he was able to see it.~~

~~MR. FERGUSON: I wasn't.~~

~~A~~ Right here is Mike's Grocery and the garage. This right here is the house next to the garage. Willie Earl was back here in this area, but it was not as thick at this time.

~~Q~~ All right. Would you point out on State's Exhibit number 22 where you were and where the defendant Chavis was and where Steve Corbett was as you have testified please?

~~A~~ Right here on Ann Street.

~~Q~~ Turn it around a little bit.

~~A~~ Right here on Ann Street. (Indicating) Ben Chavis was standing right along there. I was standing right out here where this car was parked in the middle and Steve Corbett was standing in the middle of the street kneeled down with a shotgun.

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

THE COURT: Yes, sir.

(Photographs passed to the jury.)

Q Mr. Hall, would you come to the diagram for just a minute please?

(Witness goes to the blackboard.)

Q Would you point out on the diagram where you placed the two firebombs you got from Willie Earl Vereen?

MR. HUNEVOL: Objection.

THE COURT: Overruled. (Exemption No. ---)

A Right in here. This right in here would be the side of Mike's, sort of the side of it because Mike's come out this way. I placed the firebombs right along up in here which the sidewalk and Mike's steps join together. You step off the step onto the walk.

Q Can you show it on this diagram?

MR. FERGUSON: Objection.

THE COURT: Overruled. (Exemption No. ---)

A Right there.

Q Would you show on this diagram? Would you show on the larger diagram where you were and where the defendant Chavis was and where Steve was as you were going up 5th Street?

A Chavis was standing right along in here. (Indicating.)

MR. BALLANCE: Objection.

THE COURT: Overruled. (Exemption No. ---)

A Steve was standing out in the middle of the street, and I was standing right up there sort of at the

place -

~~Q If you will, come back to the stand please.~~

(Witness returns to the witness stand.)

Q Would you state what occurred as you, the defendant Chavis and Steve went up toward 5th Street?

MR. BALLANCE: Objection, your Honor.

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

A Then I observed Father Jones walking down the street towards - walking down on 5th Street towards south.

~~Q Where was he in relation to St. Marys Church?~~

~~A He was standing - he was coming down towards the front of the church.~~ *the church*

~~Q Is St. Marys Catholic Church, the church you say you attended?~~ *is the church of*

~~A Yes, sir.~~

~~Q Did you know Father Jones prior to February 5 and 6, 1971?~~

~~A Yes, sir.~~

Q Would you tell us what occurred when you observed Father Jones there in front of the church?

A Whenever I saw Father Jones coming I hollered to him. And so I said, "Father Jones, get off the street."

MR. FERGUSON: Objection.

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

MR. FERGUSON: Move to strike.

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

A Father Jones kept hollering.

MR. FERGUSON: Objection.

THE COURT: Overruled.

A Hollered back and asked who is it. So I kept saying, "Father Jones, get off the street." So then Steve Corbett said, "I'll shoot him."

MR. FERGUSON: Objection.

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

MR. FERGUSON: Move to strike.

THE COURT: Motion denied. *(Exemption No. ---)*

A I said, "I'm not having nothing to do with killing a preacher." So Ben Chavis then said, "Who is that man behind you with a gun?" And so Father said something, and then I started hollering to him again, saying, "Father Jones, get off the street." And so Father Jones kept asking who was it. And so Chavis then hollered, said, "Tell that man to come out from behind the tree." So then I observed Chavis draw his gun up like that (indicating) pointing it towards there; and so then I started, hollered rapidly, "Father Jones, please get off the street." So then ^{Father Jones} he walked back toward the church.

~~Q Who did?~~

~~A Father Jones.~~

Q What, if anything, did Steve Corbett do at this time?

MR. EERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Then Steve Corbett went across in the middle, went across to the plaza on 5th Street facing the St. Marys Church.

Q And then what, if anything, occurred?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Then he came back across the street to where Chavis and I were standing.

Q Was anything said at this time by anyone?

MR. FERGUSON: Objection.

MR. HUNEVOL: Objection.

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

A Yes, sir; whenever we were coming back Chavis said, "Rabbit."

Q When you were coming back where?

A Coming back from 5th and Ann; 6th and Ann; rather, facing 5th Street.

~~Q Where were you going at the time?~~

~~A We were coming back to Mike's Grocery.~~

~~Q From where?~~

~~A From 5th Street.~~

~~Q Where were you at the time that the defendant Chavis~~