

the truth, so help you GOD?

BY WITNESS:

I do.

BY THE COURT:

Have a seat.

MR. WILLIE GAINES, who, after first being duly sworn, testified under oath, under direct examination, at the instance of and by counsel, Mr. Harold Brouillette, which testimony is as follows:

BY MR. BROUILLETTE:

Is your name Willie Gaines?

A. Yes, sir.

Q. How old are you, Mr. Gaines?

A. Twenty-four.

Q. Where are you from?

A. Bunkie, Louisiana.

Q. Are you presently serving in the Avoyelles Parish Jail?

A. Yes, sir.

Q. On what charge?

A. Distribution of Marijuana.

Q. When did you start serving time in Jail?

A. July 10th -- June 10th, they carried me here June 10th, to start serving time.

Q. Do you know Vincent Simmons?

A. Yes, I sure know him.

Q. How long have you known him?

A. Since I came to Marksville, a good, maybe about two years, something like that, I've been seeing him.

Q. Did you notice any -- did you witness any unusual incident at the

7-11 in Marksville, Louisiana, Preston Street, involving Vincent Simmons?

A. Yep, yes, sir, I did.

Q. What did you see happen?

A. I saw when he got into it with this dude that came up there; these two dudes that got out of the car, well, at that time I was standing by the car with Paul Dominick and them, and then this dude, he got out of the car, and came to ask him about marijuana and stuff. And, you know, Vincent started telling him that we didn't have it, nothing like that; that we ain't using that kind of stuff, you know. He went in the store and bought some peanuts and stuff, and he came back out, and he told 'em that; and Vincent say, asked him, did he still want the marijuana? And, he said, yes, he could use some. And, that's when Vincent started hitting him, and he hit him a couple of times, and the boy took off running, down the street, like he was going towards I think, by his wife, some where, out there.

Q. Did they ask you if you would sell 'em some marijuana?

A. No, sir. They ain't said nothing to me. I was standing up against the car.

Q. What happened after that?

A. Well, after they left, and stuff, Paul said he was going down to Mose's club; and I said, I was going, too; and so he told Vincent, that he was going down there, too. And, he took Vincent along with us, and he caught a ride down to the club. And, then, after that, we stayed at the club; I didn't go back down to the store or nothing like that. I went on home, you know, after I left the club.

Q. You and Vincent stayed at the club?

A. Yes, sir.

Q. And, what, did Paul leave?

A. He stayed there a while. You know, once we got in the club, well, we wasn't together. When we got in the club, he went his way, up in there, playing around the people. I was sitting down at a table something like that. Paul was around. Then, I left, I went home.

Q. How do you know that Vincent stayed at the club?

A. When I left, Vincent and his -- well, uh, brother-in-law, they left, too, you know. And, they said, they was going home.

Q. What time was that?

A. I couldn't really, really say. But, I know it was after twelve.

Q. Do you know what day this was?

A. I couldn't tell you on the day, because you see, I have some problems, too. Well, I mean, I couldn't really say.

Q. You're not sure of the date?

A. No, sir.

Q. Would you know what day of the week it was?

A. It was on a Monday.

Q. But, you don't know which Monday?

A. I got confused, you know, when they picked me up, you know, for these charges, and stuff. All that got me confused. But, I do know we all walked down the street, together on the side of the street, that I stayed on; and so they say that they was going on home, you know. So, I went on home.

Q. That's all the questions I have.

MR. WILLIE GAINES, who after first being duly sworn, testified under oath, under cross examination, at the instance of and by counsel, Mr. J. Eddie Knoll, which testimony is as follows:

BY MR. KNOLL:

Mr. Gaines, the two dudes that came over there, asking for marijuana, they didn't ask you for some marijuana, too?

A. No, sir. They didn't ask me for no marijuana. I was standing up in the crowd. You know, I was just there. They didn't come up and say, you give me some marijuana, or can I have some marijuana; they didn't ask me personally, you know.

Q. Oh, let me see if I understand it, then. The two dudes came up there, and asked the whole bunch of you all that was there... whether or not somebody had some marijuana for sale, is that correct?

A. Right.

Q. And, did anybody else say anything, other than Vincent?

A. All of us shook our heads, and Vincent said, Man, we don't use that kind of stuff around here. You know, just like that.

Q. Man, we don't use that kind of stuff around here?

A. No, we don't fool with no dope, stuff like that, you know.

And, I just nodded my head, and told him no. And, I kept on talking and all, you know.

Q. But, you did use some stuff during that time, though, weren't you?

A. Who?

Q. You.

A. No, I had -- no, I was out there; I was drinking some wine.

Q. No, no. I don't mean at that time. But, I mean, generally.

You were using marijuana at that time, were you not?

A. Yes, sir.

Q. And, the -- you were -- since that time, convicted of "Distribution of Marijuana" for which you're serving time in jail, is that correct?

A. That's right.

Q. Now, have you -- have you ever been convicted of any other crimes?

A. No, sir, other than for, you know, for probation when I had gotten married.

Q. For probation when you got married?

A. Well, when I got married, you know, me and my wife wan't together..

Q. Oh, that's non-support, you're talking about, huh?

A. That's not a crime.

Q. Okay, let me ask you this...

A. I didn't commit no crime.

BY MRS. KNOLL:

You say, Non-support is not a crime, sir?

A. No, you know what I mean. I'm talking about other than that.

BY MRS. KNOLL:

I know, but you consider it... never mind.

Q. Alright, on February 7, 1977, did you not plead guilty to a charge of "Simple Assault" in the Bunkie City Court?

A. Yes, sir.

Q. Did you not also plead guilty to -- or either pleaded or found guilty for "simple battery"? In the Bunkie city Court?

A. Battery?

Q. For hitting somebody or something?

A. Oh, yes, sir.

Q. Alright, and were you not also found guilty of "Disturbing the Peace" in the Bunkie City Court as well?

A. Yes. I was at my mother's house, then.

Q. That was what?

A. That was at my mother's house.

Q. That was at your mother's house. Okay. And, all you can say, is that you know the night that y'all met together was on a Monday night, but you don't know what date it was, is that correct?

A. No, cause, you know, cause of all of that ... (indistinct) and stuff — I mean, you know, I wasn't thinking about nothing like that, anyway.

Q. So, all you're saying, is that you just don't know what Monday it was, is that correct?

A. Um-hum.

Q. Okay. No further questions.

BY MR. BROUILLETTE:

You want me to go ahead, Judge, or you want to call the roll?

BY THE COURT:

No, you go ahead.

BY MR. BROUILLETTE:

I call John Mose.

BY THE COURT:

The record will show that the court reconvened, following a mid-morning recess, this 20th day of July, 1977, in its criminal jurisdiction, still considering the case of STATE OF LOUISIANA versus VINCENT SIMMONS; the record will show the twelve jurors and the two alternates have filed back in the Jury box; the defendant is present in court accompanied by his court appointed lawyers. The District Attorney and his Assistant are present,