

BY WITNESS:

I do.

MR. VINCENT SIMMONS, 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:

Are you Vincent Simmons?

A. I am.

Q. How old are you?

A. 24.

Q. Where do you live?

A. Marksville.

Q. Are you presently in the Avoyelles Parish Jail?

A. I am.

Q. Mr. Simmons, have you ever been convicted of any crimes?

A. I believe you'll get to a burglary charge.

Q. Where was that?

A. In this court.

Q. And, did you serve time for that?

A. I served time for it.

Q. You heard the testimony of Sharon Sanders and Karen Sanders.

Did you commit the offenses they testified to?

A. No, sir.

Q. Have you ever touched either one of those girls?

A. No, sir.

Q. Where was you on the evening of May 9th, 1977?

A. The evening of May 9th, I was at the 7-11.

Q. Which 7-11?

- A. The one out here on ...
- Q. Preston Street?
- A. Preston Street.
- Q. What happened?
- A. Well, we were standing up drinking and talking, and in a conversation, and these two white guys drove up. He came directly to me, cause they asked me, did I know Bird Francisco. And, I told 'em, yes, I knew him, you know. But, that's all I did. I knew him by name. You know. He told me that Bird Francisco had sent him the score for me; you know, score some dope for me. I told him I didn't have no dope. And, he went in the store and he bought some peanuts or whatever, and he came back out of the store; and he asked me did I want some peanuts and threw 'em at me, you know. And, that's when we started fighting. And, he broke and ran like he was going down, across the river. And, then I came back over to the other dude and I asked him did he want to score, you know. That's when we started fighting. And, then he jumped in the car, and then he left. That's when Paul Dominick told me, he said, you might as well come on, let's go to Mose before, because there ain't no telling what these guys might try to do, you know. So, I went over to Mose's.
- Q. Do you know who these people were, that you were in a fight with?
- A. Never saw 'em before.
- Q. Who did you go to Moses with?
- A. Willie Arthur, Paul Dominick and this woman that was driving with him.
- Q. When you say Willie Arthur, you're talking about Willie Gaines?
- A. Yes.

- Q. What did you do when you got to Mose's Place?
- A. Well, I sat, you know, rapping to the dudes, over there, them young guys, there -- I go so that I talk to, and order some wine, and play some music, you know, and mess around.
- Q. Was there some trouble there? That night?
- A. Yes, this dude -- I was sitting at the table, drinking some wine, and this dude walked in and grabbed a chair, and he started breaking it up into little pieces, you know. And, the chair hit me on the shoulder. And, that's when I went in my pocket. Cause, I asked what was going on, and they said the dude was crazy. You know. And, the dude grabbed another chair, and that's when I pulled my knife out, and I was, you know, going to protect my interest, you know, myself. And, that's when Mose pulled a pistol on me. Told me, if I used the knife, he was going to kill me, just like that. So, I just handed him the knife, you know. And, the laws came about ten, twenty minutes later. They took the dude out of the place.
- Q. Were you arrested?
- A. No, he just gave me my knife back. I told 'em what happened.
- Q. Do you know anything about an incident two nights before that at the same place? Were you there, on a Saturday night?
- A. Yeh, I was there. Augustine dude -- well, we got into it. I was rapping to this little old bread, you know, this little old girl, I was rapping to her, and some kind of way, she got pissed off, about something, you know, and she went over -- he's suppose to be her cousin, or uncle or something, and she told him, and that's when he came in the place, and got me with a shot gun.
- Q. Was the law called that night?

- A. Yeh, the laws, they were called. They were called.
- Q. How long did you stay at Mose's on the Monday night, May 9th?
- A. Well, I stayed there, until the place was almost closed.
- Q. What did you do when you left there?
- A. Went home.
- Q. Where do you live?
- A. 305 -- 307 or 305 Ferdinand, something like that.
- Q. Is that with your sister?
- A. Yes.
- Q. Who else lives there?
- A. My brother-in-law.
- Q. What's his name?
- A. Arthur Lavallais, and Bear. Bear lives there.
- Q. Do you own any red or maroon colored pants?
- A. No, I don't.
- Q. Do you own a silk shirt with the sleeves cut off?
- A. No, I don't.
- Q. That's all the questions I have.

MR. VINCENT SIMMONS, 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:

- Have you ever owned a red or maroon pants before?
- A. No.
- Q. Never have?
- A. No.
- Q. Have you ever borrowed anyone's red or maroon pants?
- A. No.

A. Yeh. The shirt I got on.

Q. Undershirt, huh?

A. That's an undershirt.

Q. Alright, I'm talking about an exterior shirt, you know, one that you wear on the outside? You don't own a silk shirt?

A. No.

Q. Have you ever owned a silk shirt?

A. Like this. That's a silk shirt.

Q. No, I'm talking about an exterior shirt. Not an under shirt, okay? Or not a T-shirt. I'm talking about an exterior shirt.

A. No.

Q. Never owned one?

A. (heard no answer)

BY MADAME CLERK:

You have to answer.

BY THE COURT:

Answer.

A. No. No.

Q. Okay. You testified you don't know who the two white guys were?

A. No, I don't.

Q. Now, let me see if I understand it. First of all, you say one guy came out there, and he wanted you to get some -- some dope from you; he wanted to score from you.

A. Both of the dudes walked up. Both of 'em got out of the car and walked up.

Q. Alright, they walked up directly to you?

A. Well, I was standing, you know. The dude walked up to me -- you know, from what I understood, he walked up to me and asked me, you

know, because the other dudes had said that they didn't have no dope.

Q. Oh, he asked every body, and everybody else said no; and then he went straight up to you and asked you again, is that correct?

A. Asked me, did I have some, and asked me did I know Bird Francisco and all this stuff here. I told him I knew him, but I didn't have no dope, you know.

Q. Didn't have any dope.

A. Right.

Q. Now, you said when one of 'em came back, -- first of all, can you describe those two guys for me?

A. One taller than the other one; heavy set.

Q. Heavy set -- both of 'em were heavy set?

A. Heavier than I am.

Q. ^{He}avier than you are. Okay, how much would you say the shortest one -- how tall would you say he was?

A. About my height.

Q. But, weighed more than you?

A. (heard no answer)

BY THE COURT:

Answer.

A. Yeh.

Q. Did he have any kind of distinguishing features about him?

A. What you mean?

Q. Was there anything unusual about him, that you noticed?

A. He was blond headed, that's all noticed, really. Really noticed about him, you know.

Q. Blond headed. Allright, now, what about the taller guy -- about

how tall was that guy?

A. About Michael Kelly height.

Q. About Micheal Kelly's height?

A. Right.

Q. That's the attorney on this side of Mr. Brouillette?

A. Yeh.

Q. And, you say he was bigger than you?

A. Yes, he was bigger than I am.

Q. How much do you weigh?

A. 155.

Q. Which one went in the store and bought the peanuts?

A. They both did.

Q. Both did? Okay, now, when they came out, one of 'em threw some peanuts in your face?

A. No, the dude came out of the store, opening the peanuts, and they was laughing and joking, I don't know what about. Then, he asked me, did I want some peanuts? And, he throwed them at me.

Q. Alright, when he asked you, did you want some peanuts, what did you tell him? Did you tell him yes or no?

A. I told him yeh. And, I walked up to him, you know, to accept the peanuts. That's when he threw 'em at me. That's when I started fighting with him.

Q. He threw 'em where?

A. He threw 'em at me.

Q. In your face, or...

A. Threw 'em at me.

Q. Were they in a bag, or were they loose, or...

A. They were in a jar.

- Q. In a jar?
- A. One of them jar type...
- Q. He opened the jar?
- A. That's right.
- Q. And, he threw the peanuts loose at you?
- A. Threw 'em at me.
- Q. Did they hit you?
- A. I didn't take time enough to find out what happened. I just was fighting with him.
- Q. Okay, but I'm asking did the peanuts hit you? You ought to know whether they hit you or not?
- A. The stuff was all on me, you know. And, that's when, you know, we started fighting, you see.
- Q. Y'all went to fighting then?
- A. Right.
- Q. Okay, now, which guy threw the peanuts on you, was it the short guy or the tall guy?
- A. The short guy.
- Q. The short guy. That's the one with the blond hair?
- A. (heard no answer)
- Q. Okay, did -- did he hit you back, or did you just hit him?
- A. Well, I don't know, exactly.
- Q. You don't know if he hit you or not?
- A. I know I hit him, you know, and he went back for himself, and he saw he didn't have no wind, and he broke out running...you know.
- Q. Broke out running. Okay, now, you say that then you broke and you hit the other one?
- A. I walked up to the other, and I asked him did he want to score, too,

score some dope, too, you know.

Q. Yes.

A. And, he said, yes, just like that, you know, and I gave him some dope, you know.

Q. What did you give him?

A. I gave him some dope.

Q. Some dope with your fist, huh?

A. That's right.

Q. Okay, how many times did you hit him, do you know?

A. About twice.

Q. So, in other words, you fought with both of 'em?

A. That's right.

Q. Alright, and then after that, you say that that's when Paul Dominick said, you better go with him to Mose's place, because didn't know what they might do...

A. ...one of them dudes said they was coming back.

Q. Oh, the dude said they were coming back?

A. Yes.

Q. Which one said it, or did both of 'em say it?

A. They both said it. The one that was running down the road, he said it. And, then when I came back and was fighting with the other one, he broke and ran to the car, and said, I'll be back, Nigger; just like that, you know. Then, Paul said, it's best for you to leave, Man; come down to Mose's with us. Cause ain't no telling what's going to happen. You know.

Q. Okay, now, the area around the 7-11 is well lighted, is it not?

A. Yeh, it's lit up.

Q. And, also the one over here at the 7-11 in -- on Tunica Drive, is

well lighted, too?

A. I don't know.

Q. You've never been to the 7-11 on...

A. I ain't going to say that. I've been there in the day time.

Q. You've never been to the 7-11 here at night?

A. I'm not going to say that.

Q. Okay, well -- what are you going to say. You'll have to tell me, because I don't know what you're trying to say, okay?

A. What you're trying to ask me?

Q. I'm asking you, have you ever been over at the 7-11 at night?

A. I probably have.

Q. On Tunica Drive?

A. I probably have.

Q. And, you know where the gas pumps are?

A. No-- Yeh, I know where the gas pumps at. As you're driving in.

Q. Alright, and you know that they're self-service gas pumps, don't you?

A. Yeh, I know that.

Q. Alright, and you know that there's some lights there?

A. There's some light in front of the store.

Q. Alright. And, you know that this is on the corner of Main Street and Tunica Drive, or Highway #1, correct?

A. You're talking about where your office is located, huh?

Q. AYou know wheremy office is located, right?

A. Yes.

Q. Okay, you know across -- catercorner across the street -- you know where the Ford Place is, don't you?

A. Yeh. I know that.

- Q. Okay, across from the side of the Ford Place. You know that there's a 7-11 Store there, don't you?
- A. Yeh.
- Q. Okay, that's the 7-11 we're talking about, okay? Alright, you know that that is on the corner of Tunica Drive.
- A. I didn't know that.
- Q. You don't know that.
- A. I didn't know the names and all that you're talking about, I didn't know all that.
- Q. Do you know that that is Louisiana Highway #1? That's the highway that goes like from Simmesport to Alexandria? Do you know that?
- A. Yes, I know that.
- Q. Alright, and you know that Main Street is the street that passes right out here in the front of the courthouse and goes to Hessmer, don't you? You know that huh?
- A. No, I don't know that.
- Q. You don't know that?
- A. No.
- Q. You know, this is the street, right out here, Main Street that passes in front of my office, don't you?
- A. Yeh, I know that.
- Q. Alright, and you know that the 7-11 in Marksville is situated on the corner of the road that goes from Simmesport to Alexandria, and the road that passes in front of my office, right?
- A. Yeh.
- Q. Okay. Now, you know that that area -- have you ever been to that 7-11?

A. Yeh, I have.

Q. You've been there at night?

A. In day time.

Q. You've never been there at night?

A. I'm not positive.

Q. Now, you ought to know if you've been to the 7-11 right over here.

A. I said I'm not positive; I probably have.

Q. Okay. Do you have the slip of paper that Karen gave you?

A. I don't have no slip of paper that nobody gave me.

Q. Now, at the questioning by Mr. Brouillette, you indicated that you had been convicted of burglary in this court, is that right?

A. That's right.

Q. Have you ever been convicted of any other crimes?

A. Nope.

Q. ^That's your sworn testimony?

A. What you mean, convicted, Man? That's a whole lot of meanings, you know.

Q. Have you ever pleaded guilty; were you ever tried and found guilty of any crimes?

A. Nope.

Q. You never were, except for burglary?

A. ^hat's correct.

Q. And, that's your sworn testimony? Is that right?

A. (heard no answer)

Q. Let me ask you this. Everything else you're telling right now, you're telling the truth about it, just like you're telling about your convictions, is that correct?

A. No, I'm not going to say that.

Q. Oh, you're not going to say that?

A. You're trying to tell me that -- I might not understand what you're saying. You know, I probably was convicted, you know, of something I don't remember about.

Q. You mean, you don't remember anything about?

A. No, I was convicted for one thing. That's in '70 of "attempted burglary" in this court here.

Q. Attempted burglary, or burglary?

A. Burglary, or whatever, and since that, that I remember, I wasn't convicted of nothing else, that I remember.

Q. Nothing else; in no other courts?

A. In no other courts.

Q. Let me see if I can help refresh your memory a little bit. Okay, now, let me see if I understand you correctly. The burglary that you're -- that you recall, was in 1970, you said, huh?

A. Somewhere around there.

Q. And, that was the burglary of the Albert Wiley home?

A. I don't know whose home it was.

Q. You don't know, okay. That one, you remember, though?

A. Yeh, I remember that one.

Q. Okay. Now, on August 25, 1971, Mr. Simmons, do you remember pleading guilty to Simple Escape in this court?

A. No.

Q. Don't recall it. You don't recall Mr. Riddle filing a Bill against you on or about August 8, 1971, of you violating the provisions of Article 110 of Louisiana Criminal Code, entitled "Simple Escape", in that you did escape from the Avoyelles Parish Jail?

A. No.

Q. You don't recall that?

A. That all went along with the first charge that I was charged with; with the burglary. From what the Judge told me, all this was going down together.

Q. Wait, let's back up, now. The burglary took place on May 22, 1970, did it not?

A. I stayed in jail 15 months, Man... I...

Q. Are you going to answer the question? The burglary took place in 1970, did it not?

A. I guess so.

Q. The escape took place on August 8, 1971, did it not?

A. I guess so.

Q. Did you plead guilty to Simple Escape in this court?

A. I pleaded guilty to simple escape and the burglary. All of this was suppose to be on the same rap.

Q. Okay, but you recall pleading guilty to the Simple Escape, now, don't you?

A. Yes.

Q. Allright. Mr. Simmons on August 25, 1971, do you recall pleading guilty to Simple Criminal Damage to property, namely, by burning mattresses in the Avoyelles Parish Jail, and damaging some gas lines in the Avoyelles Parish Jail? Do you recall that?

A. All of this was on the same charge, the same deal I pleaded guilty on.

Q. In other words ...

A. All this was suppose to be just one plea. You know. That's why I pleaded guilty to it. All of this was on one plea.

- Q. Okay, let's back up, now. You were sentenced to serve time on the burglary on January 29, 1971, were you not? Correct?
- A. I guess so.
- Q. In August of '71 is when you pleaded guilty to Simple Criminal Damage to Property, is that correct?
- A. I'm not sure.
- Q. In August of '71, is when you pleaded guilty to the Simple Escape, did you not?
- A. I'm not sure.
- Q. On June 30, 1977, you were tried and found guilty of DWI in this court, were you not?
- A. I was.
- Q. You remember that one, now. On March 4, 1970, did you not enter a plea of guilty to a charge of disturbing the peace in the Town of Marksville in the Marksville City Court? March 4, 1970?
- A. I don't remember.
- Q. You don't remember that one. On July 3, 1977, did you not plead guilty, or were you not found guilty of disturbing the peace in the Mansura City Court before the Mayor?
- A. What's that question again? Was I found guilty?
- Q. Or pleaded guilty, either one.
- A. This year? (heard no other answer)
- Q. On the date being March 27, 1977?
- A. I don't remember.
- Q. Your honor, at this time, in connection with the witness' testimony, I would like to file, in globo, for the record, certified copies from this court, your honor, of ...

BY THE COURT:

Q. ...Simple Burglary....

BY THE COURT:

Allright.

Q. Simple Escape, and Simple Criminal Damage to Property.

BY THE COURT:

Allright.

Q. Marking that STATE'S EXHIBIT #6.

BY MR. BROUILLETTE:

The reference to the burglary, is not admissible. He admitted to it, both on direct and cross. So, it's not admissible... It's only admissible to ...

Q. Allright, your honor, I would submit the other two.

BY THE COURT:

Allright.

Q. I would withdraw that offer.

BY MR. BROUILLETTE:

On the Simple Criminal Damage to Property, which is a misdemeanor and operating a vehicle while intoxicated, we object on the same basis as the prior objection to ...

BY THE COURT:

objection
Allright, the court will overrule the objection and permit the documents filed, all except the Simple Burglary, which the witness admitted, under oath.

BY MR. BROUILLETTE:

We object to the ruling of the court.

BY THE COURT:

Allright, let the objection be noted.

Q. Your honor, may we cut the record for a few minutes, please?

BY MR. BROUILLETTE:

We have no further questions.

BY THE COURT:

Allright, that's all, sir.

BY MR. BROUILLETTE:

~~Your honor~~ in connection with the testimony of Karen and Sharon Sanders, in the -- in connection with the defense's case, we wish to offer, introduce and file the Preliminary Examination of July 7, 1977, for purposes of showing contradictory statements, at the trial. I make that offering at this time.

BY THE COURT:

It's a part of the record.

BY MR. BROUILLETTE:

I have a copy. The original is a part of the record.

BY THE COURT:

It's filed, yes, sir. Any other witness? Allright, the defense rests. Any rebuttal evidence?

BY MR. ENOLL:

Yes, your honor. May we have about five minutes to get them all together, please?

BY THE COURT:

Is the machine on?

BY MADAME CLERK:

Ah, yes, sir.

BY THE COURT:

Allright. The record will show that the court reconvened following a late morning recess this 20th day of July, 1977, still considering the case of STATE OF LOUISIANA versus VINCENT SIMMONS; the re-