

William O'Brien—Cross

(213a) Q. Did you accompany him when he was returned to Camden?

A. I did.

Q. When was he brought back to Camden?

A. I think we left Newark in the neighborhood of two
10 o'clock, Mr. Prosecutor. I don't know the exact time.

Q. What time did you arrive in Camden?

A. I would say around 4:30.

MR. HEINE: You may cross-examine.

CROSS-EXAMINATION.

BY MR. BERTMAN:

20 Q. During the ride back from Newark to Camden, did Sylvester Johnson sleep?

A. He could have dozed off, Mr. Bertman. I did most of the driving back.

Q. Sir?

A. He could have dozed off. I did most of the driving on the way back.

Q. How many were in the car?

A. How many in the car?

Q. Yes.

30 A. Lieutenant Conly, Sergeant Tracy, Johnson and myself.

Q. There were four of you in the car?

A. That is correct.

Q. The purpose in going to Newark was to apprehend Johnson, was it not?

A. That is correct.

Q. Did you not feel it imperative or part of your (214a)

William O'Brien—Re-direct

duty to question Johnson in connection with this alleged crime?

A. Well, there were two men sitting in the back with him. I think they were capable.

Q. They were questioning him, were they not?

A. There was conversation in the back of the car, yes. 10

Q. Did you see him doze off?

A. I really could not answer that, Mr. Bertman.

Q. Well, sir, most of the time there was questioning, was there not, concerning this matter?

A. I said there was conversation.

Q. Conversation?

A. Yes.

MR. BERTMAN: That is all I have.

20

RE-DIRECT EXAMINATION.

BY MR. HEINE:

Q. Did you say that you were doing the driving?

A. I did most of it, Mr. Prosecutor.

Q. Where was Johnson sitting?

A. He was sitting in the back between Lieutenant Conly and Sergeant Tracy.

30

MR. HEINE: That is all.

MR. CAGGIANO: No questions.

MR. FLUHARTY: No questions.

THE COURT: You may be excused, sir.

Philip Large—Direct

(215a) PHILIP LARGE, sworn.

DIRECT EXAMINATION.

10 BY MR. HEINE:

Q. Captain, by whom are you employed?

A. County of Camden, sir.

Q. In what capacity?

A. Captain of the county detectives.

Q. How long have you been employed by the county detectives?

A. Since 1949.

Q. Since 1949, did you say?

20 A. Yes.

Q. Prior to that time, the time that you were a county detective, did you have any other police employment?

A. I was employed as a patrolman by the City of Camden.

Q. How long were you employed by the City of Camden on the police force?

A. 1938.

Q. Therefore, you have been connected with police work continuously since 1938?

A. Yes, sir.

30 Q. Were you present at the time that Wayne Godfrey was arrested?

A. I was, sir.

Q. Where was that?

A. It was in a taproom known as the Little Click Cafe at Locust and Chestnut Streets in the City of Camden.

Q. After Godfrey was arrested—incidentally, was there anyone else apprehended at the same time?

Philip Large—Direct

(216a) A. Yes.

Q. Who was that?

A. Noah Hamilton.

Q. After Godfrey was arrested along with Noah Hamilton, what happened to Godfrey's automobile?

Did you see it?

10

A. Yes, sir.

Q. Where was it?

A. Sitting on the outside of the Little Click taproom.

Q. What happened to the automobile?

A. When Mr. Godfrey was apprehended, he was searched and there was a set of automobile keys taken from him.

He identified the keys as being the ones that belonged to a 1947 Buick that was sitting outside the taproom, and he was taken out and identified that as his car.

I notified the City Police Department garage to bring a tow truck and take the car to the Bridge Garage at Seventh and Linden Streets in the City of Camden. 20

Q. Did Mr. Godfrey identify the car as belonging to him at the time?

A. Yes, sir.

Q. Did you observe the car?

A. Yes, sir.

Q. What make car was it?

A. A Buick.

Q. Do you know what year?

30

A. I believe a '56 or '57.

Q. What color was it?

A. Two-tone color.

Q. What colors were they?

A. White on top; red on the bottom.

MR. BERTMAN: If your Honor pleases, the questions and answers came so fast with this witness and, I am sure,

Philip Large—Direct

(217a) not intentionally, but I was taken unawares and I wonder, I want to record an objection.

10 A question was asked whether or not Wayne Godfrey admitted that the car was his, and the answer, naturally, has already been given, but, if your Honor pleases, some time ago we made a motion for statements, confessions or admissions that any defendants made to anyone and, if your Honor pleases, I feel that my motion at that time embraced any oral admissions or statements or confessions.

At that time I asked if there were any oral admissions or statements or confessions, and if there were any, that we be furnished with either a copy of the same or be permitted to take depositions of the same.

20 I want to voice my objection, if your Honor pleases, to the fact that here was a statement or an admission made by one of the defendants in this case of which we have had no prior notice.

I, therefore, ask that it be stricken. I realize my objection may come a little late, but for the purpose of the record, and in view of the fact that the question and answer did come in inadvertently so fast, and I was not alert enough at the time to make any objection, I want to at this time make my objection and ask that the answer be stricken.

30 If there are any other admissions or statements by any of these defendants, whether they be oral or not, I ask that we be given prior notice of the same in advance of the witness' testimony.

MR. HEINE: May I refresh Mr. Bertman's recollection as well as the other attorneys to the fact that they tried to stipulate that this was Mr. Godfrey's car. That is that the car shown in these pictures was agreed to and admitted to

Philip Large—Direct

by them as belonging to Mr. Godfrey. This is merely corroborative of that stipulation.

(218a) This does not come as a surprise.

THE COURT: Mr. Bertman, you made an objection on the record. What do you want me to do? 10

MR. BERTMAN: If your Honor pleases, because of the fact that this question and answer came in so fast, and because there may be others of a similar nature, I want to put on the record that I am objecting to any admissions made by a defendant regardless of whether we have stipulated or not.

I want to put that on the record and make it a part of this record that that should not be brought out during the course of the trial because we have not received a copy or have been permitted to take depositions of any statements, oral statements that may have been made by any defendants. 20

THE COURT: I will rule on objections as they are made. I want to rule on this particular objection.

What do you want me to do?

MR. BERTMAN: I want to note on the record, if your Honor pleases, and ask that that particular answer be stricken. 30

THE COURT: I will deny your motion.

BY MR. HEINE:

Q. Captain, I show you a car which is shown in the photo-

Philip Large—Direct

graph S-20 and ask you whether or not this is the car that was outside of the Little Click Cafe at the time that Godfrey was apprehended.

(219a) A. Yes, this is a picture of that car.

10 Q. And I ask you to look at the car shown in pictures or photographs marked S-19 and S-21 and ask you whether or not this is the same car.

A. Yes, they are pictures of the same car.

MR. HEINE: Cross-examine.

MR. FLUHARTY: No questions.

MR. BERTMAN: No questions.

20 MR. CAGGIANO: No questions.

THE COURT: I assume, Mr. Prosecutor, that the references to Godfrey, the references to Johnson and the references to Cassidy are the defendants in this court room. I don't think they have been specifically identified but I don't think we could assume anything else, unless there may be strict proof required. I am at a loss to know whether that is a fact or not; I assume it is.

30 MR. HEINE: We will clear this up right now.

BY MR. HEINE:

Q. Do you know Wayne Godfrey?

A. Yes.

Q. Did you recognize him in the court room?

A. Yes.

Detective Nathan Jones—Direct

Q. Will you please stand up and point Mr. Godfrey out.

A. The gentleman on the left with the brown suit.

(220a) MR. HEINE: Will the record show—you better step down and place your hand on Mr. Godfrey's shoulders.

10

THE WITNESS: This one.

MR. HEINE: Now will the record show that Captain Large placed his hands on the defendant, Wayne Godfrey's, shoulder.

Any question about that?

MR. FLUHARTY: No question.

MR. HEINE: That's all.

20

(Witness excused.)

DETECTIVE NATHAN JONES, recalled.

BY MR. HEINE:

Q. Detective Jones, I believe you were present at the time that Stanley Cassidy was arrested? 30

A. Yes, sir.

Q. You testified to that?

A. Yes, sir.

Q. You recognize Cassidy now?

A. Yes.

Q. Will you please step down from the witness stand and point out Mr. Cassidy?

Vincent Conly—Direct

(Witness complies.)

(221a) MR. HEINE: May the record please show that Detective Jones placed his hand on defendant, Stanley Cassidy's, shoulder.

10 Any questions about that, Mr. Caggiano?

MR. CAGGIANO: No question.

(Witness excused.)

VINCENT CONLY, recalled.

20 BY MR. HEINE:

Q. Lieutenant, you previously testified that you were present when Sylvester Johnson, one of the defendants here, was apprehended in Newark, is that right?

A. Yes.

Q. Do you recognize the defendant, Johnson, in court now?

A. I do.

Q. Will you step down from the stand and point him out?

30

(Witness complies.)

MR. HEINE: May the record please show that Lieutenant Conly placed his hand on the defendant Johnson's, shoulder.

I ask Mr. Bertman whether or not he will agree that is so.

Vincent Conly—Direct

MR. BERTMAN: You want me to try your case, Mr. Prosecutor?

(222a) MR. HEINE: No, I don't.

MR. BERTMAN: I will agree. 10

MR. HEINE: That's all, thank you.

(Witness excused.)

* * * * *

(Commencing 310a-7.)

THE COURT: Members of the jury, there are certain 20
questions which have been raised, which present a legal
problem and not a factual problem, which means that I will
have to hear this testimony and pass upon its legal efficacy,
so it is no problem of yours.

You are now going to be excused while I hear that field of
testimony. We are now approaching—I think the clock says
12:30—we will be at least till one o'clock and maybe when
we adjourn we may have to continue at two o'clock out of
your presence.

So, you are excused now and I would suggest that the 30
jury be taken to the assembly room at two o'clock, and if
we are fortunate to have completed by that time I will so
notify the attendants. If not, they will have to remain there
until we conclude this period of testimony.

Now, since I last told you this, there has been some tes-
timony which might provoke discussion. Now, I am going
to ask you again, and I haven't done this every day because

Discussion

you are intelligent enough not to be told that every day, I am going to tell you once more, not to discuss any of the testimony that you heard up to this time. The only time you must discuss the testimony is when all of it is in and you are in the jury room deliberating, and not until then.

10 You are excused until two o'clock.

(Jury leaves the courtroom at 12:35 P. M.)

THE COURT: Now, for the purpose of the record, Mr. Fluharty and Mr. Caggiano and Mr. Bertman, it has been suggested, as I understand it from counsel for the defendants, that the question of whether or not any confessions or (311a) statements were voluntary, should be made out of the presence of the jury, and I have dismissed the jury and

20 I am ready to proceed with that evidence now.

MR. CAGGIANO: That is my position, Your Honor.

MR. BERTMAN: Yes.

THE COURT: Counsel agree with that statement? Do all counsel agree with that statement?

MR. FLUHARTY: Yes.

30

MR. BERTMAN: That any questions —

THE COURT: As to the voluntary nature.

MR. BERTMAN: Shall be made not in the presence of the jury?

THE COURT: That's right.

Wilfred Dube—Direct

MR. BERTMAN: Yes.

THE COURT: In other words, you have a right, Mr. Bertman, to hear the same testimony all over again if you so desire.

MR. BERTMAN: All right.

10

THE COURT: But I am going to pass upon it in the absence of the jury, to determine whether or not any state- (312a) ment, or confession, or confessions, or statements were voluntary.

MR. BERTMAN: Good enough.

THE COURT: All right.

20

WILFRED DUBE, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Chief Dube, were you present when the defendant, Stanley Cassidy, was interrogated?

30

A. Yes, I was.

Q. Where and when did that take place?

A. The interrogation started on January 29, Wednesday, at about 9:00 A. M., in my office in the Prosecutor's office in the Court House, on the Sixth Floor.

Q. Was there anyone else present at the time?

Wilfred Dube—Direct

A. Sergeant Conly from the Camden Police Department; Captain Philip Large from my office, the Prosecutor's office, and Mr. Fred Albert, the Official Court Stenographer.

Q. Prior to his interrogation, was anything said to him?

A. Yes, sir.

10 Q. What was said?

A. I identified myself to him as being Chief of the County Detectives; I identified Sergeant Conly of the Camden City Detective Bureau to him; I identified Captain Philip Large from my office. I told him where he was, that was (313a) in the Court House on the Sixth Floor in the Prosecutor's Office, in my office, and I told him that I was going to, I told him rather that last Friday, the previous Friday night, January 24, there had been a holdup at a store at 1731 Broadway in which the proprietor, Mr. Davis, had been
20 shot and as a result of that shooting, a short time later, died in the Cooper Hospital.

I told him that I was going to ask him some questions concerning how Mr. Davis received this injury, but that before I ask him these questions, that it was my duty to warn him that everything he told me must be the truth, must be of his own free will, without any threats or promises having been made to him, and knowing further that anything I asked him and any answers he made could be used against anyone else at some future time in Court.

30 I asked him if he had understood everything I just said to him and he said he did. I asked him would he answer my questions and he said he would.

Q. Now, at the conclusion of this confession, were the questions and answers read back to him?

A. At the conclusion of his confession, I instructed the stenographer to read back all of the questions I asked him, all of the answers he made to them. After that was done

Wilfred Dube—Direct

I came back into the room. I asked him if he had just heard all of the questions read to him and all of the answers that he made to those questions, and asked him would he acknowledge that the answers he made to the questions and the answers he had made to the questions I had asked him, and he said that that was so.

10

Q. Were any threats made to this defendant?

A. There were no threats made.

Q. Were any promises made him?

A. There were no promises made to him.

(314a) Q. Was he intimidated in any way?

A. He was not intimidated, threatened, or promised anything in any way.

Q. Was there any physical act of violence or assault used?

A. No physical act of violence or assault in any form.

Q. Who was present at the time that the questions and answers were read back to Cassidy?

20

A. There was no one present. The questions and answers were read back to him by Mr. Albert, the stenographer, just by himself.

Q. No one else was in the room besides those two?

A. No, sir.

Q. Albert and Cassidy?

A. That's right.

MR. HEINE: You may cross-examine.

30

MR. CAGGIANO: Defendant Cassidy does not admit but does agree with all answers given by Chief Dube.

MR. FLUHARTY: No questions.

Wilfred Dube—Cross

CROSS-EXAMINATION.

BY MR. BERTMAN:

10 Q. Chief Dube, I understand by your answer that you stated to Cassidy that you were going to question him concerning the events that took place on this particular evening and that anything he said could be used against him or anyone else. Is that correct?

MR. HEINE: Just a moment.

(315a) MR. BERTMAN: I am asking him whether or not he said that.

20 MR. HEINE: I am objecting to Mr. Bertman interrogating this witness concerning Mr. Cassidy's confession, since the voluntariness and completeness of Chief Dube's testimony has not been questioned in any way.

THE COURT: Aren't we going to the voluntary phase of this and not to an exploration of what was said?

30 MR. BERTMAN: If your Honor please, I feel that if there is evidence to the effect that the questions and answers given to Cassidy in some way might affect my client, I feel I am entitled to ask what he warned Cassidy. In other words, it appears to me that in his answer to the Prosecutor that Chief Dube did say that anything that "you would say could be used against you or others."

If your Honor please, I don't understand that to be the law. So that it appears to me that what Chief Dube did say to Cassidy, although most likely not intentional, was a mis-

Wilfred Dube—Cross

representation of the law and in some way that would affect or prejudice my client's interest.

THE COURT: But are we concerned with your client's confession now?

MR. BERTMAN: No, we are not. But any confession or what is contained in the confession of others might have lured or led that person into making statements by representations or by erroneous representations of Chief Dube. It might have lured them into making statements they otherwise would not have made.

(316a) MR. HEINE: If your Honor please, this is not the test. We are now talking about the voluntariness of the confession.

In addition to that, I want to point out to the Court that there is no need to warn the witness of anything.

THE COURT: I understand there is no duty to warn.

MR. BERTMAN: There is no duty, but having done so I feel that a proper warning should have been made.

MR. HEINE: In addition to that, if your Honor please, I assume that if, as and when these confessions will be read in the court, that your Honor will instruct the jury that these are not to bind anybody except the confessor.

THE COURT: That is right. I am going to sustain the objection to the question, Mr. Bertman.

MR. BERTMAN: I have nothing further.

Wilfred Dube—Cross
Vincent Conly—Re-direct

CROSS-EXAMINATION.

BY MR. CAGGIANO:

10 Q. Chief Dube, to your knowledge do you know whether or not the defendant, Stanley Cassidy, was interrogated before you came into the room and before you commenced with your interrogation?

A. Mr. Cassidy was brought into the room, and to my office, and at that time I began the interrogation.

Q. You do not know whether he had been interrogated prior to that?

(317a) A. I don't know what happened. I was in my office when he was brought in.

20

MR. CAGGIANO: I have nothing further.

MR. FLUHARTY: I have nothing.

VINCENT CONLY, having been previously sworn, resumed the stand and testified further as follows:

30 RE-DIRECT EXAMINATION.

BY MR. HEINE:

Q. You were previously sworn in this case?

A. Yes, sir.

Q. Were you present when the defendant, Stanley Cassidy, was interrogated?

Vincent Conly—Re-direct

- A. Yes, sir.
- Q. Where did the interrogation take place?
- A. In Chief Dube's office, the Prosecutor's office.
- Q. Was there anyone else present at the time?
- A. Yes. There was Captain Large and the court stenographer. 10
- Q. Prior to his interrogation did you hear anything said to him?
- A. Yes. Chief Dube warned him about what he would say and so forth, told him where he was, introduced the men present and the court stenographer.
- Q. Did he make any answer to Chief Dube's statement and warning?
- (318a) A. Told Chief Dube that he would make a statement.
- Q. Were you present at the conclusion of his confession when the answers and questions were read back to him? 20
- A. No, I wasn't.
- Q. Were you present when he acknowledged the correctness of the questions and answers?
- A. Yes. You mean afterwards?
- Q. Afterwards.
- A. After the statement was read back to him?
- Q. Yes.
- A. No. 30
- Q. You were not present then?
- A. I was there at the finish of the statement.
- Q. Were you present then at the finish of the statement?
- A. Yes.
- Q. Did he acknowledge that these were the questions that were asked of him and that these were the answers that he gave to those questions.
- A. I don't recall that, Prosecutor.

Vincent Conly—Re-cross

Q. Were any threats made to Cassidy?

A. No.

Q. Were any promises made to Cassidy?

A. No.

Q. Was he intimidated in any manner?

10 A. No, sir.

Q. Was any physical acts of violence or assault used?

A. No, sir.

MR. HEINE: You may cross-examine.

(319a) RE-CROSS EXAMINATION.

BY MR. CAGGIANO:

20 Q. Lieutenant Conly, of your own knowledge, do you know whether or not statements of witnesses, more particularly, Noah Hamilton, was read to Stanley Cassidy?

A. What was that again?

Q. The statement made by a witness, Noah Hamilton, do you know whether or not that statement was read to Stanley Cassidy?

A. No, I don't.

30 MR. HEINE: Just a moment. The witness says he does not know. The question, I think, is improper. We are talking about the voluntariness of the confession, not the contents.

MR. CAGGIANO: Your Honor —

THE COURT: He has answered it. He said no.

Vincent Conly—Re-cross

Q. Prior your going into Chief Dube's office and before the taking of the statement and the questioning by Chief Dube, had the defendant, Stanley Cassidy, been interrogated?

MR. HEINE: Object to this, if your Honor please. This 10
is not on the question of voluntariness.

THE COURT: It might be. I will allow this question.

A. Yes.

(320a) Q. Where was that question?

A. That question was in the Prosecutor's office there. It could be either in Captain Dube's office or the office next door.

Q. Who was the interrogating officer? 20

A. I believe it was Captain Large.

Q. Captain Large?

A. Yes, sir.

Q. Were you present during that interrogation?

A. Well, there was a talk to him, asked him what his activities were during the commission of this crime.

Q. Question him as to the happening of this crime, did you not?

A. That's right.

Q. Do you remember how his questions started? How 30
did this open?

A. Wasn't a formal statement taken. It was just told him why he was there and everything he said could be used for or against him.

Q. He was advised of his rights?

MR. CAGGIANO: No further questions.

Philip Large—Re-direct

MR. FLUHARTY: No questions.

MR. BERTMAN: No questions.

MR. HEINE: I have nothing further.

10

(321a) PHILIP LARGE, having been previously sworn, resumed the stand and testified as follows:

RE-DIRECT EXAMINATION.

BY MR. HEINE:

20 Q. Were you present when the defendant, Stanley Cassidy, was interrogated?

A. Yes, I was.

Q. Do you remember when that was?

A. Wednesday morning, January 29, I believe, 1958.

Q. Who else was present at the time?

A. Sergeant Conly of the Camden City Detective Bureau and Chief Wilfred Dube of the Camden County Prosecutor's office, Mr. Freddie Albert, the Court Stenographer for the County of Camden.

30 Q. Where did the interrogation take place?

A. Chief Dube's office in the Prosecutor's office.

Q. Prior to his interrogation was anything said to him?

A. Chief Dube gave him the usual warning that is given to all persons prior to their making a statement.

Q. And what answer did Cassidy make to Chief Dube's warning?

A. Mr. Cassidy said he understood it and that he was

Philip Large—Re-direct

willing to make a statement and answer Mr. Dube's questions.

Q. At the conclusion of his confession were you present when the questions and answers were read back to him?

A. No, I was not.

Q. Were you present when he acknowledged the correctness of the questions and the answers that he gave to those questions? 10

(322a) A. Yes, I was present then.

Q. Who was present when the questions and answers were read back to him?

A. I believe just Mr. Fred Albert and Mr. Cassidy himself.

Q. During any part of this time were any threats made on Cassidy?

A. No. 20

Q. Were any promises made to him?

A. No.

Q. Was he intimidated in any manner?

A. No, sir.

Q. Were there any acts, physical acts, violence or assault used against him?

A. No, sir.

MR. HEINE: You may cross-examine.

30

Philip Large—Re-cross

RE-CROSS EXAMINATION.

BY MR. CAGGLIANO:

10 Q. Captain Large, prior to the statement made at the instance and interrogation of Chief Dube, did you question this defendant?

A. Yes, sir.

Q. Prior to your questioning him did you threaten him?

A. No, sir.

Q. Did you make him any promise?

A. No, sir.

Q. Was this defendant intimidated by anyone, to your knowledge?

A. No, sir.

20 (323a) Q. By you?

A. No, sir.

Q. Prior to your questioning did you advise him of his rights?

A. Yes, sir.

MR. CAGGLIANO: No further questions.

MR. FLUHARTY: No questions.

30 MR. BERTMAN: No questions.

THE COURT: Suppose we take our luncheon recess. We will recess until 2:00 P. M.

(Luncheon recess.)

Discussion

(Afternoon session.)

THE COURT: Members of the jury, we are still pursuing the line of examination that I spoke to you about before lunch.

It looks very much like it will continue for a little while yet. 10

After that is concluded, I have called a conference of all the attorneys involved in the matter with a thought in mind that there are certain stipulations that might be entered into which, I believe, will shorten this case at least a day, if we are successful.

Therefore, I think what we better do is continue with this out of your presence, with this line of examination, which (324a) we must do, and then proceed on with the conference. That will take the rest of the afternoon, and if we are successful, I am sure it will lighten your burden for the rest of the week. 20

Do not misunderstand me, I do not mean it will end the case, but it will shorten it, I hope.

Therefore, you may now return to the hotel where I am sure it will be more comfortable for you than waiting in the room for me to send for you.

We will start promptly tomorrow morning at ten o'clock.

(The jury is excused for the day.) 30

MR. HEINE: Mr. Albert.

Fred W. Albert—Direct

FRED W. ALBERT, sworn.

DIRECT EXAMINATION.

10 BY MR. HEINE:

Q. Mr. Albert, you are the Official Court Stenographer in Camden County?

A. I am, sir.

Q. How long have you been the Official Court Stenographer in this county?

A. Going on thirty-eight years.

Q. Were you present when the defendant, Stanley Cassidy, was interrogated?

20 A. I was.

Q. Where did the interrogation take place?

(325a) A. The interrogation took place in the Prosecutor's office in this building.

Q. When?

A. On January 29, 1958.

Q. What time of the day?

A. Well, at various times; one commencing at nine o'clock A. M.

Q. Who was present?

30 A. Chief Wilfred Dube, Captain Philip Large, Sergeant Vincent Conly, and I.

Q. Prior to his interrogation, was anything said to Cassidy?

A. Chief Dube conducted the interrogation, and he warned Mr. Cassidy of his rights.

Q. I am sorry, I did not hear that.

A. He warned Mr. Cassidy of his rights.

Fred W. Albert—Direct

Q. After Stanley Cassidy was warned of his rights, what answer did he make as to whether or not he was willing to make a confession?

A. I am reading for the record:

“Q. Under those circumstances, are you willing to answer my questions?”

10

“A. Yes.”

Q. You say you are reading from the record. Do you have any independent recollection of that other than what you just read?

A. I have a positive recollection that that is what occurred.

Q. At the conclusion of his confession, were the questions and answers read back to him?

A. Every single question and answer was read back to Mr. Cassidy.

20

Q. When I refer to “him” I mean Stanley Cassidy.

(326a) A. Yes.

Q. Did Stanley Cassidy acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. He did, sir.

Q. When these questions and answers were read back to him, who was in the room?

A. May I refer to the record and I will tell you.

Q. Do you have any recollection other than the record?

30

A. Well, at one time Chief Dube was there alone and at another time Sergeant Neale and Detective Conly were there.

Q. Would referring to the record refresh your recollection?

A. Yes, sir.

Q. By referring to your record, tell us who was present

Fred W. Albert—Direct

at the time the questions and answers were read back to Stanley Cassidy.

A. All right, sir.

The first portion of the statement, Chief Dube.

10 Q. I am only talking about the first portion of the statement.

A. Chief Dube only.

Q. Were any threats—were you present at the time the questions and answers were read back to him?

A. The entire time.

Q. I beg your pardon?

A. The entire time.

Q. During the time that you were there, were any threats made on this defendant?

A. No, sir.

20 Q. Were any promises made to him?

A. No, sir.

(327a) Q. Was he intimidated in any manner.

A. No manner whatsoever.

Q. Were any physical acts of violence or assaults used to obtain the confession?

A. None, sir.

MR. HEINE: You may cross-examine.

30 MR. BERTMAN: No questions.

MR. FLUHARTY: No questions.

Fred W. Albert—Cross

CROSS-EXAMINATION.

BY MR. CAGGIANO:

Q. Mr. Albert, if I am correct, the statement was taken of the defendant, Stanley Cassidy, at 9:00 A. M. on the 29th of January, 1958? Is that so? 10

A. So my record shows.

Q. Did you then take a subsequent statement from the defendant Mr. Cassidy?

A. Yes, at 10:20.

Q. At 10:20?

A. That is right.

Q. Was there then a subsequent statement —

MR. HEINE: If Your Honor pleases, I think Mr. Caggiano—I object to the question because I think Mr. Caggiano is getting ahead of me. 20

I was only proving the voluntariness of the first confession.

There were three confessions, or the confession consists (328a) of three parts. Cassidy was interrogated at three different times.

I want to prove each interrogation separately, and I merely confined myself to the first interrogation. 30

THE COURT: You won't proceed on the others?

MR. HEINE: I will as soon as Mr. Albert is finished with this one. I will then proceed with the subsequent interrogations.

MR. CAGGIANO: No questions.

Wilfred L. Dube—Direct

WILFRED L. DUBE, recalled.

DIRECT EXAMINATION.

10 BY MR. HEINE:

Q. Chief Dube, what time did you commence the interrogation of Stanley Cassidy on Wednesday, January 29, 1958?

A. Nine o'clock in the morning.

Q. What time did the interrogation conclude?

A. About 10:20.

Q. In the morning or afternoon?

A. In the morning.

20 Q. Now, after that did you interrogate Stanley Cassidy further?

A. Yes, sir, shortly after noon, about 12:15, I again had Cassidy brought in and talked to him and took another statement.

(329a) Q. Now, where was that statement taken from him?

A. That statement was taken in my office, the same place that the previous statement had been taken.

Q. Who was present at the time the second interrogation was conducted?

30 A. Myself, Mr. Albert, the stenographer, and the defendant, Cassidy.

Q. Now, where did that interrogation take place?

A. In my office in the Prosecutor's office on the sixth floor.

Q. Prior to his interrogation at that time, at the time of 12:15, when you say you first commenced the second interrogation, was anything said to him?

Wilfred L. Dube—Direct

A. I brought him in and said to him that I had taken a statement from him earlier in the morning in which he had told me concerning the facts of his participation in this holdup, and that at this time I wanted to ask him a few extra questions concerning his having had a gun, and I proceeded to ask him these questions.

10

Q. What time of the day did the second interrogation conclude?

A. About 12:40 or 45, it was just before one o'clock.

Q. Now, at the conclusion of this second interrogation were the questions and answers read back to Stanley Cassidy?

A. I asked the stenographer to read back all the questions that I had just asked Mr. Cassidy and I left the room while this was being done.

Q. Did Stanley Cassidy acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

20

A. After the questions and answers had been read back to him I came back into the room and asked him if he had (330a) just heard the court stenographer read the questions I asked him and read the answers that he made to my questions, and I asked him if he acknowledged that those answers to my questions were the answers he made and if the questions I asked were the questions I asked him and he acknowledged that they were.

30

Q. During the second interrogation were there any threats made to this defendant?

A. No, sir.

Q. Were any promises made to him?

A. No promises, no threats.

Q. Was he intimidated in any manner?

A. No, sir, he was merely asked to answer some further questions.

Wilfred L. Dube—Cross

Q. Were any physical acts of violence or assault used?

A. No, sir.

Q. Now, you stated that the first interrogation concluded about 10:25 A. M. and the second interrogation commenced about 12:15 P. M. Where was Stanley Cassidy in the mean-
10 time, those two hours?

A. After he had made the first interrogation, and the answers were read back to him, ending around 10:25, he was taken out of the room and then I commenced taking another statement from another defendant. I presume that he was taken in one of the other rooms in the Prosecutor's office where he was kept until I talked to him later at 12:15.

MR. HEINE: Cross-examine.

20

(331a) WILFRED DUBE, recalled.

CROSS-EXAMINATION.

BY MR. CAGGIANO:

Q. Chief Dube, when you took the second statement from the defendant, Cassidy, did you advise him of his rights at
30 that time?

A. I believe I told him at that time, Mr. Caggiano, that I had taken a statement from him earlier in the morning, at which time he was advised of his rights and I wanted to ask him a few subsequent questions. I don't believe I said anything further to him. I asked him to answer them and he agreed,

Fred Albert—Direct

Q. You later took a statement from the defendant, Cassidy, at 11:40 P. M.

A. That's correct.

MR. HEINE: If Your Honor please, that is the third part.

10

MR. CAGGIANO: We might as well continue with it.

MR. HEINE: I have no objection, but I want the record to show the voluntariness of each statement. I want to bring Mr. Albert back to confirm the second interrogation and I want to go through with the third, so that this record will show clearly just what he did and what he was advised of.

20

MR. CAGGIANO: No further questions.

(332a) FRED ALBERT, resumed the witness stand.

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Mr. Albert, were you present at the time that the defendant, Stanley Cassidy, was interrogated for the second time?

30

A. Yes I was.

Q. What time of the day did the second interrogation commence?

A. 12:15 P. M.

Fred Albert—Direct

Q. Where did this interrogation take place?

A. In the Prosecutor's office, Chief Dube's office, to be specific.

Q. Was there anyone else present at the time?

A. Yes, Chief Dube, the defendant and I.

10 Q. At the conclusion of the second interrogation, were the questions and answers read back to him?

A. Each and every question and answer was read to the defendant.

Q. Did Stanley Cassidy acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. Yes, he did.

Q. Were any threats made to this defendant, Stanley Cassidy at that time?

20 A. None whatsoever.

Q. Were any promises made to him?

A. None.

Q. Was he intimidated in any manner?

(333a) A. No, sir.

Q. Were any physical acts of violence or assault used?

A. No.

MR. HEINE: You may cross-examine.

30 MR. BERTMAN: No questions.

MR. FLUHARTY: No questions.

MR. CAGGIANO: No questions.

MR. HEINE: Just one further question: What time did the second interrogation conclude?

Wilfred L. Dube—Direct

THE WITNESS: 12:45 P. M.

MR. HEINE: That is all.

WILFRED L. DUBE, previously sworn.

10

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Chief Dube, following the second interrogation, did you interrogate Stanley Cassidy further that day?

A. Yes, sir. That same evening, just before midnight, at about 11:40, I again interrogated Stanley Cassidy.

20

Q. Who was present at the time of this third interrogation?

(334a) A. Myself, Mr. Albert and the defendant.

Q. Prior to this third interrogation, was anything said to him?

A. This time I told him that I was still asking him questions concerning the hold-up of Mr. Davis, that I had taken two previous statements from him and that there were one or two more questions that I wanted to find out from him concerning a gun, and asked him if he would answer my questions and he said he would.

30

Q. At the conclusion of this third interrogation were the questions and answers read back to him?

A. Yes, sir. I asked the stenographer to read the questions and answers back to him and I left the room. Shortly thereafter, upon this having been done by Mr. Albert, I came back in the room, again asked Mr. Cassidy if he had

Wilfred L. Dube—Direct

heard the questions that I asked him read back to him and the answers he made, and asked if he would acknowledge that those were the questions I asked him and those were the answers he made to my questions, and he said he would.

Q. Did he acknowledge the correctness thereof?

10 A. He did.

Q. Were any threats made to Stanley Cassidy at the time this third interrogation took place?

A. No, sir.

Q. Were any promises made to him?

A. No, sir.

Q. Was he intimidated in any manner?

A. No, sir.

Q. Were there any physical acts of violence or assault used?

20 A. There was not.

Q. You previously stated that you had concluded the second interrogation about 12:45 P. M. and that this (335a) third interrogation commenced around 11:40 P. M. Where was Stanley Cassidy in the meantime?

A. After the second short statement I took that concluded at 12:45, I believe that Mr. Cassidy had been placed in the detention room in the Detective Bureau, where he was told to rest or do whatever he chose to do until I next asked for him that evening.

30

MR. HEINE: You may cross-examine.

MR. BERTMAN: No questions.

MR. CAGGIANO: No questions.

MR. FLUHARTY: No questions.

Fred Albert—Direct

FRED ALBERT, previously sworn.

DIRECT EXAMINATION.

BY MR. HEINE:

10

Q. Mr. Albert, were you present when the defendant, Stanley Cassidy, was interrogated a third time?

A. I was.

Q. What time did this third interrogation commence?

A. 11:40 P. M.

Q. What time did it conclude?

A. 11:50 P. M.

Q. Who was present at the time of this third interrogation?

20

(336a) A. Chief Dube, the defendant and I.

Q. At the conclusion of this third interrogation, were the questions and answers read back to him?

A. They were.

Q. Who read them back to him?

A. I did.

Q. Who read back the questions and answers of the first two interrogations?

A. I did.

Q. Did Stanley Cassidy acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions as read by you?

30

A. He did.

Q. Were there any threats made to this defendant at the time of this third interrogation?

A. None.

Q. Were any promises made to him?

Fred Albert—Direct

A. None.

Q. Was he intimidated in any manner?

A. Not in any manner.

Q. Were any physical acts of violence or assault used?

A. None.

10

MR. HEINE: You may cross-examine.

MR. CAGGIANO: No questions.

MR. FLUHARTY: No questions.

MR. BERTMAN: No questions.

20

MR. HEINE: If Your Honor please, I now feel that we have clearly established the voluntariness of these confessions (337a) and I am prepared, whenever it meets the convenience of the Court and counsel, to have the confessions introduced in evidence.

THE COURT: Does the defendant, Cassidy, have any testimony or evidence that he desires to offer as to the voluntary nature of his confession, or confessions?

MR. CAGGIANO: No, Your Honor.

30

THE COURT: No evidence is offered in his behalf in this respect?

MR. CAGGIANO: That is correct.

THE COURT: I would therefore establish that the confession, or confessions of defendant, Cassidy, were voluntarily secured from that defendant.

Discussion

MR. HEINE: Now, if Your Honor please, since the jury is not in the court room at this time, I move that a reference in the Stanley Cassidy confession which appears on the third line of page 9, commencing —

THE COURT: Is there a possibility of my having a copy 10
of that so that I may follow you?

MR. HEINE: Yes, sir. I move, if Your Honor please, that the reference on the third line, commencing with the words "Police Department photograph 11837" be deleted from this confession before it is presented to the jury.

MR. BERTMAN: If Your Honor please, I feel that even (338a) the second line "I show you a picture of a man, Syl- 20
vester Johnson" certainly would tend to have the jury believe that this is a police photograph, whether it was so stated in that line or not. In fact, a Chief of Police will show a person a picture and say "I show you a photograph" certainly —

THE COURT: Do you think, Mr. Heine, that that might create some conjecture in the minds of the jurors?

MR. HEINE: I do not see how. The question would then read, with the deletion that I have suggested: "I show you 30
a picture of a man, Sylvester Johnson, and ask you if that is not Sylvester Johnson who came to your house?"

THE COURT: I know that, but wouldn't that create some question in the minds of the jurors that that could have been a police photograph?

Discussion

MR. HEINE: I don't see how. It is nowhere indicated that this is a police photograph. I don't see how there could be this kind of an inference.

10 MR. BERTMAN: I think it would, if Your Honor please, unless the Chief had explained: "I show you a snapshot that was taken of Sylvester Johnson while at a picnic," whatever it might be. If it had that explanatory remark in it, the jury could not guess or conjure up the thought that it was a police picture.

20 THE COURT: Couldn't they also conclude that they might have taken the picture of the man that night and shown him the picture? I mean, so far as conjecture is (339a) concerned, you might say the other. You might say that that particular night they took a picture of him.

MR. BERTMAN: If they took it that particular night, why, instead of taking the picture of him that night, they would have brought him in in person. Now, it seems to me that any reference to a picture would certainly tend to have the jury believe that this is a police photograph.

MR. BERTMAN: Personally, I do not see how it will harm the State by leaving that out.

30 I do not question the Prosecutor's motives, but his insistence.

THE COURT: He does name Sylvester Johnson throughout this.

MR. HEINE: Oh, yes.

MR. BERTMAN: There are other references to him.

Discussion

MR. HEINE: My only point is that, the only reason advanced for the deletion of the entire question is because the jury might conjecture as to what picture it is.

As long as we are getting into the realm of conjecture, they might conjecture anything. However, I do not think it is essential. I do not think there is any question that this is the Sylvester Johson, the named defendant, and if Mr. Bertman insists, I have no objection if the whole question and answer is stricken. 10

MR. BERTMAN: I ask that it be stricken.

THE COURT: The question and answer beginning on (340a) Line 2 and ending on Line 5 will be stricken and not referred to as the result of an objection by Mr. Bertman. 20

MR. BERTMAN: Is the stenographer making—is Mr. Albert making a note of that?

THE COURT: I think he better.
It is on Page 9, from Line 2 including Line 5.

MR. HEINE: I assume we may now proceed with the other confessions, your Honor? 30

THE COURT: Yes.

Chief Wilfred L. Dube—Direct

CHIEF WILFRED L. DUBE, recalled.

DIRECT EXAMINATION.

10 BY MR. HEINE:

Q. Chief Dube, were you present when the defendant, Wayne Godfrey, was interrogated?

A. Yes, I was.

Q. Where did this interrogation take place?

A. This interrogation took place in my office on the sixth floor of the court house in the Prosecutor's office.

Q. When did this interrogation take place?

A. On Wednesday, January 29, at about 10:25 in the
20 morning.

Q. Was that January 29 of last year, 1958?

A. January 29, 1958.

(341a) Q. Was there anyone else present at the time?

A. At that time there was the defendant, Captain Philip Large, Sergeant Vincent Conly, Lieutenant William Neale from the City Detective Bureau and Detective William Large from my Prosecutor's office.

Q. Was this interrogation taken down stenographically?

A. Pardon me. Mr. Fred Albert, the Official Court Ste-
30 nographer for Camden County, was also present.

Q. Prior to the interrogation of Wayne Godfrey, was anything said to him by you?

A. Prior to the interrogation of Wayne Godfrey, I told him where he was, that he was in my office on the sixth floor of the Court House. I introduced him to the men that were in the room, namely, Captain Large, Detective William Large, Lieutenant Neale from the City Detective Bu-

Chief Wilfred L. Dube—Direct

reau, Sergeant Conly from the City Detective Bureau, Mr. Albert, the Official Court Stenographer, and introduced myself to him as chief of the county detectives for Camden County.

I told him that on Friday night, the Friday preceding January 24, 1958, that there had been a holdup at a store located at 1731 Broadway in which the proprietor, Mr. Edward Davis, had been shot and as a result of that shooting had died a short time later in the Cooper Hospital. 10

I explained to him that I was going to ask him some questions as to his part in that holdup, but that before I asked him these questions that it was my duty to warn him that everything he told me must be the truth, and must be of his own free will without any threats or promises have been made to him.

After that was said to him, I asked him if he understood what I had just told him and he said that he did. 20

(342a) I asked him if he was willing to answer my questions and he said that he was.

Q. At the conclusion of his confession were the questions and answers read back to him?

A. At the conclusion of the confession, I asked the stenographer if he would read back all of the questions that I had asked him and all of the answers he made to my questions. Myself and the other officers left the room and left Mr. Godfrey with the stenographer in my office. 30

After the questions and answers were read back to him by the stenographer, I came back into the room and asked him if he had just heard the questions that I asked him and if he had just heard his answers that he made to those questions and he said that he had.

I asked him if he would acknowledge the questions he had heard as being those I asked him and the answers he made were as he made them and he said that he did.

Chief Wilfred L. Dube—Cross

Q. Were any threats made to Wayne Godfrey at this time?

A. No, sir, there were not.

Q. And were any promises made to him?

A. No promises made to him.

10 Q. Was he intimidated in any manner?

A. He was not intimidated in any manner.

Q. Were any physical acts of violence or assaults used on him?

A. No, there was no physical acts of violence or assaults used on him.

Q. What time of the day did the interrogation conclude?

A. I think it concluded just about 12:00 o'clock, Mr. Prosecutor.

20 MR. HEINE: You may cross-examine.

(343a) CROSS-EXAMINATION.

BY MR. FLUHARTY:

Q. Chief Dube, do you know when Wayne Godfrey was apprehended?

A. The previous day. I believe some time in the afternoon on Tuesday, the 28th.

30 Q. In the afternoon you say?

A. I believe so.

Q. Could you give me an approximate time?

A. I was not there, Mr. Fluharty. I know it was sometime in the afternoon. I don't know approximately what time it was.

Q. Chief Dube, do you know if from the time he was apprehended until 10:25 A. M. the following morning when

Chief Wilfred L. Dube—Cross

the questioning began, do you know if he was given an opportunity to sleep at all?

A. I was in and out of the Detective Bureau all that night, and I do not know where Mr. Godfrey was. He was not with me.

Q. He was not with you?

10

A. That is right.

Q. Did you see him in the Prosecutor's office as you went in and out during that night?

A. I was not in the Prosecutor's office that night, sir. I was in the City Detective Bureau.

Q. You do not know where Mr. Godfrey was?

A. He was around in the Detective Bureau, probably in one of the detention rooms, but I do not know where he was and I had not talked to him.

Q. You refer to a detention room.

20

Are there sleeping facilities in the detention room?

(344a) A. I believe there are tables there, Mr. Fluharty. I don't know what the facilities are. I have not seen the new detention rooms.

Q. Sir, how was Wayne Godfrey dressed when the questioning began at 10:25 in the morning? Do you recall?

A. You are asking me something that happened a year ago, Mr. Fluharty. I do not recall actually how he was dressed that morning.

Q. Do you recall, sir, if he had shoes and socks on?

30

A. I believe he had shoes on. I would not—I am certain he was not barefooted.

Q. Do you recall, sir, if he was seated near a window?

A. I believe he was seated. My desk and the desk of Captain Large which would be in the middle of the room.

I believe Mr. Albert was sitting at Captain Large's desk taking the questions.

Chief Wilfred L. Dube—Re-direct

Q. Do you recall, sir, whether there was an open window in the room at the time of the questioning?

A. I would not recall, no, sir.

Q. Sir, can you tell us if at the time you questioned him you spoke in the same tone that you have used here today
10 in testifying?

A. I believe so.

Q. You did not raise your voice or shout to him at all?

A. I did not have to, Mr. Fluharty.

Q. Do I take it from that that he voluntarily cooperated with you?

A. He voluntarily answered my questions as I asked them of him.

Q. He did not seem reluctant to give you the information?

20 A. No reluctance or hesitation that I could detect.

(345a) He told me what had happened and his participation in this crime.

MR. FLUHARTY: I have nothing further.

MR. CAGGIANO: No questions.

MR. BERTMAN: No questions.

30 RE-DIRECT EXAMINATION.

BY MR. HEINE:

Q. Were any threats made to Wayne Godfrey at any time before or during the confession?

A. Never during the confession or at any time that he was in my presence.

Lt. William Neale—Direct

Q. At any time while Wayne Godfrey was in your presence or during the questioning, did he complain about lack of sleep?

A. No, sir.

Q. Did he ever request time to sleep?

A. No, sir.

10

Q. Do you know whether or not you wore your coat during the time of the interrogation?

A. Mr. Prosecutor, there were about seven or eight men in that room. It is a small office. I believe I was in my shirt sleeves.

MR. HEINE: That is all.

MR. FLUHARTY: No questions.

20

(346a) LT. WILLIAM NEALE, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

Q. You have sworn to testify in the trial, haven't you?

A. Yes, sir.

30

Q. Lieutenant, were you present at the time that the defendant, Wayne Godfrey, was interrogated?

A. Yes, sir.

Q. Where did the interrogation take place?

A. In Chief Dube's office of the Prosecutor's office, sixth floor of the Court House.

Q. Was there anyone else present at the time?

Lt. William Neale—Direct

A. Yes, sir.

Q. Who was present?

A. Chief Dube, Philip Large, Detective William Large of the Prosecutor's office, Sergeant Vincent Conley, and myself of the City Police Department, and Mr. Fred Albert, the Court Stenographer.

10 Q. Prior to the interrogation, was there anything said by Chief Dube to the defendant, Wayne Godfrey?

A. Yes, sir.

Q. What was said to him?

A. Chief Dube explained to him who was in the room, he identified everybody that was in the room, including himself and the Court Stenographer. He explained to him of his rights and he asked him if he would make a voluntary statement, and Wayne Godfrey made his statement.

20 Q. Did Wayne Godfrey indicate that he wouldn't make a voluntary statement?

(347a) A. No, sir, no hesitation whatever on his part.

Q. Then he did indicate that he would make a voluntary statement?

A. Yes, sir.

Q. At the conclusion of his confession, were you present when the questions and answers were read back to him?

A. No, I was not, sir.

30 Q. Were you present when Wayne Godfrey acknowledged or not the correctness of the questions asked of him and the answers given by him in response to those questions?

A. Yes, sir, I was present at that time.

Q. Did he acknowledge?

A. Yes, sir, he did, sir.

Q. That they were correct?

A. Yes, sir,

Lt. William Neale—Cross

Q. Were any threats made to Wayne Godfrey?

A. No threats whatsoever.

Q. Were any promises made to him?

A. No, sir.

Q. Was he intimidated in any manner?

A. No.

10

Q. Were any physical acts of violence or assault used?

A. Absolutely none.

MR. HEINE: Cross-examine.

CROSS-EXAMINATION.

BY MR. FLUHARTY:

Q. Lieutenant Neale, I believe you heard Chief Dube testify that Wayne Godfrey was apprehended sometime Tuesday afternoon, the 28th of January, 1958. Do you happen to know, sir, what time he was apprehended?

20

(348a) A. It was approximately 1:30 in the afternoon.

Q. Do you know where he was taken when he was first apprehended?

A. To the Detective Bureau, City Hall.

Q. Do you know if he was questioned there at all?

A. Not at that time, no sir, he was not.

Q. How long did he remain there?

30

A. At the Detective Division?

Q. Yes.

A. He remained in the Detective Division until he was taken to the Prosecutor's office.

Q. So that from 1:30 Tuesday afternoon until he was taken to the Prosecutor's office, he remained in the Detective Division?

Lt. William Neale—Cross

A. Yes.

Q. Now, you mean then he was there all the way until the next day?

A. Yes, sir.

Q. During that time, where was he kept, sir, if you know?

10 A. He was in the conference room on the fifth floor, City Hall.

Q. In the conference room?

A. Yes.

Q. From 1:30 Tuesday afternoon until 10:25 or thereabouts Wednesday morning?

A. Not exactly, he was first brought into Detective Bureau, he was put in the interrogation room, which isn't the Detective Bureau proper, that is in the Bureau itself, that is apart from the conference room.

20 Q. How long did he remain there, sir?

A. Just a short time, until he was removed to the conference room, and then he remained in the conference room.

(349a) Q. Could you give me any approximation as to how long it was before he was removed to the conference room?

A. You mean from the interrogation room to the conference room? No, I can't say exactly how long.

30 Q. Then I take it that when he was once removed to the conference room he then spent, he remained there until Wednesday morning, when he was taken to the Prosecutor's?

A. He was removed from the interrogation room to the conference room until about four o'clock that same day, then he was brought back to the interrogation room for about an hour, and then removed once again to the conference room.

Q. And then remained in the conference room until 10:25 the next morning?

Lt. William Neale—Cross

A. Well, to the best of my knowledge, I left there at four that morning, from then on I can't say what happened.

Q. Then you can say, with certainty, until four o'clock in the morning he remained in the conference room?

A. Yes.

Q. Was he questioned while he was in the conference room? 10

A. Yes, sir.

Q. And by whom, sir?

A. Well, I myself questioned him briefly.

Q. And was there anyone else?

A. He was also questioned by Detective Russell Young and Detective Thomas Scarduzio, and Detective Walter Zimalong.

Q. Who was the last gentleman?

A. Walter Zimalong. 20

Q. Do you recall Captain Large interrogating him at all when he was in the conference room?

(350a) A. No, I don't recall Captain Large.

Q. Now, can I take it that you don't recall, or that he was not?

A. I don't recall, he may have been, but I don't know whether he was or not.

Q. Now, from the time that he was placed in the conference room until four o'clock in the morning when you left, was he questioned continuously? 30

A. Until four o'clock in the morning, no sir.

Q. Tell me this, you mentioned that he was questioned by yourself, Mr. Young, Scarduzio and Zimalong, was he questioned in shifts, or did they question him all at the same time?

A. No, sir, we didn't start the process of interrogation until approximately about ten o'clock that evening, before he was interrogated.

Lt. William Neale—Cross

Q. So then he was in there from approximately one-thirty, or shortly thereafter, until ten o'clock that evening before any questioning at all began.

A. That is by the detectives, yes, sir.

10 Q. Who would have questioned him during that period of time?

A. He was questioned before the local police by Philadelphia detectives.

Q. During that time?

A. Yes, sir, and that did not start until 8:05.

Q. Do you know, sir, if he had any opportunity to sleep while he was in the conference room from shortly after one-thirty Tuesday until four o'clock in the morning, when you left?

20 A. Well, he had an opportunity to sleep there if he wished.

Q. What is in the conference room, can you describe it for us?

(351a) A. Well, in the conference room, it is quite a large room, it is located right next to the Chief of Police's office, and there is a large conference table just about the size of the length of those two tables put together and I'd say just a little bit wider, and I'd say there is about eight chairs in there surrounding the table, and there is, well the physical layout, there is three windows in that room.

30 Q. Are those windows opened or closed?

A. You can open them.

Q. They can be opened?

A. Yes.

Q. Do you recall if they were opened or not?

A. No, those windows weren't opened.

Q. They were not?

A. No, I am sure of that.

Lt. William Neale—Cross

Q. Are there any cots or any facilities that we generally think of to sleep on?

A. No, no sleeping facilities as far as cots or beds.

Q. Is there any lighting?

A. Yes, plenty of light.

Q. What type of light?

A. Overhead lighting.

Q. Any spotlights at all?

A. No, sir.

Q. No spotlights?

A. No.

Q. What does the overhead lighting consist of?

A. Fluorescent lighting.

Q. The general tubing?

A. Yes.

Q. White lights?

A. White lights. Well, they are not white lights. They are what they call the pink bulb, I believe. It sort of takes the glare off of the white.

(352a) Q. Now, from the time starting with, I believe, approximately ten o'clock when you said the questioning began until you left at four o'clock in the morning, do you recall if Godfrey complained at all about lack of sleep?

A. No, sir, he did not.

Q. Do you recall if he had shoes and socks on?

A. Shoes and socks?

Q. Yes.

A. I'm almost certain he had shoes and socks.

Q. Do you know if he was given any food between 1:30 and approximately 10:00 o'clock when the interrogation began?

A. As a matter of fact, we sent out and got them steak dinners and later on we got them hamburgers and coffee.

Lt. William Neale—Cross

Because I believe Detective Zimalong was the one that went out and bought the food. Now, they were ordered, I know this. I see Mr. Godfrey is shaking his head. The steak dinners were ordered for all of these gentlemen. I can't say I saw him eating the steak dinner. I know we
10 ordered steak dinners for all of them.

However, I know this, in my presence for, I don't know how much, coffee for Mr. Godfrey and hamburgers because he drank coffee incessantly.

Q. When the questioning began between 10:00 o'clock and 4:00 when you left, was he given any food during that time?

A. What time was that?

Q. I think you testified that the questioning began approximately ten o'clock on the evening of the 28th?

20 A. Yes, sir.

Q. And that you were there till about four o'clock in the morning?

A. Well, not during the entire course of the questioning. I was in the detective division until four.

(353a) Q. Can you tell us if he was questioned continuously from 10:00 to 4:00?

A. Well, no, sir, I can't say if he was questioned continuously from 10:00 to 4:00. Because I left the conference room, I'd say, about ten minutes after eleven.

30 Q. Then between 10:00 o'clock and ten after eleven was the questioning continuous, if you know?

A. Yes, sir.

Q. During that time was any food given to him?

A. Why, he was drinking coffee at that time. I think he had just finished a hamburger. Because we sent out several times for hamburgers and coffee. I can't say it was that moment or not.

Lt. William Neale—Cross

Q. During that period, namely, from 10:00 o'clock until approximately ten after eleven, did he complain of wanting to go to sleep at all?

A. No, sir.

Q. You observed him, I assume, during that period of time. Is that right?

10

A. Yes, sir.

Q. Did you observe his head dropping at all?

A. Well, not in the fashion in which you are making it. He was sitting there with his face in the palm of his hands, which I was also.

Q. Do you recall if anyone, during that period of time, namely, from 10:00 o'clock until ten after eleven, banged their fist upon the table or made any unusual noise to awaken him?

A. Not during that time.

20

Q. Was there any time that this was done, that you recall?

A. Not to my knowledge.

Q. During the questioning, while you were present, were you, yourself, doing the interrogation or was someone else?

(354a) A. No, I spoke to him briefly.

Q. I am now referring to the period from ten o'clock until approximately ten after eleven?

A. Yes, sir.

Q. Which, I believe is stated as the time the questioning took place while you were there. Were you conducting that investigation or were various persons?

30

A. I was conducting the interrogation and also Detective Scarduzio and Detective Young was there at that time with me who were also asking questions.

Q. Were you questioning him intermittently?

A. Yes.

Vincent Conley—Direct

Q. First one and then the other?

A. Yes, sir.

Q. What tone of voice were you using at the time you questioned him?

A. Well, like we are talking here.

10 Q. Same as you have been testifying here today?

A. Yes, sir.

Q. Did you hear anyone shout at him?

A. Not at that time.

Q. Anybody make any statements that "You ought to be taken care of"?

A. No, sir.

MR. FLUHARTY: I have nothing further.

20 MR. BERTMAN: No questions.

MR. CAGGIANO: No questions.

MR. HEINE: That is all.

(355a) VINCENT CONLEY, recalled.

30 DIRECT EXAMINATION.

BY MR. HEINE:

Q. Sergeant, were you present when the defendant, Wayne Godfrey, was interrogated by Chief Dube?

A. I was.

Q. Where did that interrogation take place?

Vincent Conley—Direct

A. In Chief Dube's office.

Q. Was there anyone else present at the time?

A. Captain Large, William Large, Lieutenant Neale, myself and the court stenographer.

Q. Prior to his interrogation was there anything said to him concerning his rights? 10

A. Yes. Chief Dube explained all that to him.

Q. Did you or did you not hear Wayne Godfrey say that he would make a voluntary statement?

A. I heard him say he would.

Q. At the conclusion of his confession were the questions and answers read back to him?

A. At the conclusion we left the room and Fred Albert stayed in the room with him.

Q. Did you return to the room?

A. Yes, we returned to the room later. 20

Q. When you returned to the room did you or did you not hear Wayne Godfrey acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. Yes, I did.

Q. Were any threats made to the defendant, Wayne Godfrey?

(356a) A. No, sir.

Q. Were any promises made to him?

A. No, sir. 30

Q. Was Wayne Godfrey intimidated in any manner?

A. No, sir.

Q. Were any physical acts of violence or assault used against him?

A. No, sir.

MR. HEINE: You may cross-examine.

Vincent Conley—Cross

CROSS-EXAMINATION.

BY MR. FLUHARTY:

Q. Sir, you heard Detective Neale just testify, I assume.
10 He referred to Wayne being taken into custody at approximately 1:30 on Tuesday, January 28, and then being taken to the Detective Bureau where he remained in the conference room until he was then taken to the Prosecutor's office.

Did you have any connection with Wayne Godfrey during the time he was in the Detective Bureau at all?

A. No, sir.

Q. So then the first time you had any connection with him was when he was brought into the Prosecutor's office
20 and there interrogated?

A. Outside of seeing him in the Detective Bureau.

Q. You saw him but you, yourself, did not question him. Did you hear anyone else questioning him?

A. No, sir.

Q. With reference to the time he was brought into the Prosecutor's office, that was approximately 10:25 A. M. on Wednesday morning—is that right?

(357a) A. That's right.

Q. The 29th of January, that would be the day after he
30 was apprehended?

A. Yes, sir.

Q. Did you have a chance to observe his physical appearance?

A. Yes, sir.

Q. Do you recall if he had shoes and socks on?

A. No, I don't recall whether he had socks on. He had shoes on.

Vincent Conley—Cross

Q. He did have shoes on?

A. Yes.

Q. What was the general condition of the room in the Prosecutor's office when he was questioned?

By that I mean was it warm or was it cold?

A. It was comfortable.

10

Q. You would say it was comfortable?

A. That's right.

Q. So therefore it was not unreasonably cold or unreasonably warm?

A. No, sir.

Q. At the time that he was interrogated in the Prosecutor's office what was the condition of the lighting?

A. In the Prosecutor's office?

I don't recall that.

Q. Well, were any special lights brought in?

20

A. No, sir.

Q. Then I take it there were no spotlights or anything of that type?

A. No, sir.

Q. Were you present during the entire period of his interrogation in the Prosecutor's office?

A. Yes, sir.

(358a) Q. And Chief Dube did the questioning. Is that right?

A. That's right.

30

Q. Were any comments made by others during the course of the questioning by Chief Dube other than Mr. Albert who had some things to say with reference to reading questions back?

A. No, sir.

Q. No one else?

A. Chief Dube did the questioning.

Vincent Conley—Cross

Q. No one else had anything to say during the questioning?

A. Not that I recall, no, sir. I don't recall anyone.

Q. What did the other gentlemen do? How did they occupy themselves while Chief Dube was interrogating
10 Wayne Godfrey?

A. Listening to the questions and answers.

Q. Did they sit or did they walk about?

A. They were sitting.

Q. Now, sir, I believe that it is general practice that officers of the law carry a service revolver. Did you see any of those exhibited or placed upon the desk or in sight during the questioning of Wayne Godfrey?

A. No, sir.

Q. Did the officers who were present have their coats
20 on or off?

A. I don't recall how they were dressed.

Q. Do you recall, sir, whether the window in the room where he was interrogated was opened or closed?

A. No, I don't.

Q. During the interrogation that commenced on 10:25 of January 29, 1958, from that time until the conclusion of the first period of interrogation which, I believe, was approximately 11:35, did Wayne complain about being sleepy at all?

30 (359a) A. No, sir.

Q. Did he at any time doze off?

A. No, sir.

Q. Did anyone have occasion to bang their fist upon the table or to shake him at all?

A. No, sir.

Q. Was he given any coffee?

A. Not that I recall at that time.

Vincent Conley—Cross

Q. Was he given anything to eat?

A. What was that?

Q. Was he given anything to eat?

A. I don't recall him receiving anything at that time.

Q. Was he, while he was questioned, told by anyone that he was charged with a crime or advised in any way that he was a suspect? 10

A. Chief Dube explained that to him at the beginning of the statement.

Q. I believe the chief testified that he explained to him certain rights that he had, that what he said had to be voluntary, of his own free will and so forth and that it could be used against him. But do you recall anyone telling him that he was actually a suspect in this robbery killing?

A. No, I don't. 20

Q. Would you be able to tell us whether you knew if Wayne knew—do you follow that? It seems somewhat cumbersome. Perhaps I ought to rephrase that. Could you tell us whether Wayne knew —

A. By the nature of the questions he must have known that he was being questioned about participation in that crime.

Q. Was there any discussion at all with reference to Wayne being held only as a material witness?

A. No, I don't recall anything like that. 30

(360a) MR. FLUHARTY: Nothing further.

MR. HEINE: That is all.

William Large—Direct

WILLIAM LARGE, previously sworn.

DIRECT EXAMINATION.

10 BY MR. HEINE:

Q. Were you present when the defendant, Wayne Godfrey, was interrogated by Chief Dube?

A. I was.

Q. Where did this interrogation take place?

A. Sixth Floor of this building, in the Prosecutor's office.

Q. Was there anyone else present at the time?

A. Chief Dube, the Court Stenographer, Captain Large,
20 Sergeant Conley, and Lieutenant Neale, as far as I can recall.

Q. Prior to this interrogation, did you hear Chief Dube say anything to him?

A. Just before it started, before the start of the interrogation, the Chief advised him of his rights, and also stated that what he would say would be without promise or threat from him.

Q. Did you hear Wayne Godfrey say that he would make a voluntary statement?

A. Yes, sir.

30 Q. At the conclusion of his confession, were you present when the questions and answers were read back to him?

(361a) A. I was not.

Q. Were you present when Wayne Godfrey did or did not acknowledge the correctness of the questions asked and the answers given by him in response to those questions?

A. I was,

William Large—Cross

Q. Did he acknowledge?

A. He did acknowledge his statement yes.

Q. As being correct?

A. As being correct, yes.

Q. Were any threats made to Wayne Godfrey?

A. No, sir.

Q. Were any promises made to Wayne Godfrey?

A. No, sir.

Q. Was he intimidated in any manner?

A. No, sir.

Q. Were any physical acts of violence or assault used?

A. No, sir.

10

MR. HEINE: You may cross-examine.

CROSS-EXAMINATION.

20

BY MR. FLUHARTY:

Q. Sir, you heard Lieutenant Neale testify, I assume, did you not?

A. Yes, sir.

Q. I believe you stated that Wayne Godfrey was taken into custody at about 1:30 on Tuesday afternoon, January 28th, 1958, and was kept in the conference room until such time that he was taken to the Prosecutor's office; namely, 10:25 Wednesday morning, January 29, 1958?

30

(362a) Now, during that period of time, while he was in the conference room, did you have any connection with him?

A. I went in and out. I was in and out of the room.

Q. Did you question him at all?

A. At that time it was not my duty to question him. I was more or less an all-around man.

William Large—Cross

Q. I take it you were a casual observer?

A. More or less.

Q. You had not questioned him at all?

A. No, sir.

Q. Did you see him from time to time?

10 A. Off and on, yes, I did.

Q. Did you ever notice if he slept at all?

A. I don't remember.

Q. Did you see him from time to time beginning at 1:30 Tuesday afternoon and ending at 10:25 A. M. the following morning, did you see him all that period of time?

A. I did see him during that time.

Q. Did you have to go off duty at all, sir?

A. No. Hours did not mean anything at the time.

Q. You worked all night?

20 A. Yes.

Q. He was in the conference room all night long until the next morning? That is, to the best of your recollection, or from what you observed?

A. I cannot answer that. No, like I said, he may have been in the detention room, the detectives' detention room before.

Q. Is the detention room different from the conference room?

30 A. There is a separation there. I.D. separates the two rooms.

Q. Is the detention room smaller than the conference room?

(363a) A. Yes.

Q. Can you tell us how long you saw him in the detention room?

A. I did not see him in there at all.

Philip Large—Direct

Q. You did not see him at all?

A. No.

MR. FLUHARTY: I have no questions.

MR. CAGGIANO: No questions.

10

MR. BERTMAN: No questions.

PHILIP LARGE, previously sworn.

DIRECT EXAMINATION.

BY MR. HEINE:

20

Q. Captain, were you present when the defendant, Stanley Cassidy, was interrogated by Chief Dube?

A. Yes, I was, sir.

Q. Where did this interrogation take place?

A. Chief Dube's office in the Prosecutor's office of this building.

Q. Was there anyone else present at the time?

A. Yes, sir, there were.

Q. Who was present?

30

A. Mr. Fred Albert, Official Court Stenographer for the City of Camden, Lieutenant William Neale, City Detective Bureau, Detective Sergeant Vincent Conley of the City Detective Bureau, County Detective William Large, myself and Mr. Wayne Godfrey.

Q. Prior to the interrogation of Wayne Godfrey did you or did you not hear Mr. Dube say anything to him?

Philip Large—Direct

A. I did, sir.

Q. What was said by Chief Dube to Wayne Godfrey?

10 A. He gave Mr. Godfrey the usual warning that is given to all defendants when they are brought in to make a statement, to the effect that I am going to ask you some questions concerning a certain crime and before I ask these questions, I want to inform you that it must be voluntarily on your part, with the full knowledge that it can and will be used against you at a later date in Court, and so on.

Q. Did Wayne Godfrey make any answer to Chief Dube?

BY MR. HEINE:

Q. What did he say?

20 A. He said he understood it and that he would answer Mr. Dube's questions.

Q. At the conclusion of Wayne Godfrey's confessions were the questions and answers read back to him?

A. Mr. Albert requested us to leave the room and said that he was going to read them back and we left the room.

Q. Did you return into the room?

A. I did, sir.

30 Q. After you returned in the room did you or did you not hear Wayne Godfrey acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions as read to him by Fred Albert?

A. Yes, I did.

Q. Were any threats made to Wayne Godfrey?

(365a) A. No, sir.

Q. Were any promises made to him?

A. No, sir.

Q. Was he intimidated in any manner?

Philip Large—Cross

A. No, sir.

Q. Were any physical acts of violence or assaults used?

A. No, sir.

MR. HEINE: Cross-examine.

10

CROSS-EXAMINATION.

BY MR. FLUHARTY:

Q. Now, sir, I assume you heard Lieutenant Neale testify with reference to the period of time while Wayne Godfrey was held in the detective bureau in the conference room, I think he said, did you hear the testimony?

A. Yes, sir.

Q. Did you have any connection with Wayne Godfrey during that period of time, namely, 1:30 Tuesday afternoon, January 28, 1958, until 10:25 A. M., January 29, 1958, did you have any connection with him then? 20

A. On and off, yes, sir.

Q. And what was your connection, did you interrogate him on and off?

A. We asked him some questions or I did, asked him to identify some clothes, whether they were his, and so forth.

Q. Now, sir, were you on duty all night that night?

A. Oh, yes.

30

Q. Can you tell us then as a fact whether he was detained from 1:30 Tuesday morning until 10:25 the following morning, he was detained at the Detective Bureau all that time?

A. Between the City Detective Bureau and the County Prosecutor's office.

Q. Well, I understand he wasn't taken to the County

Philip Large—Cross

Prosecutor's office until approximately 10:25 Wednesday morning, January 29, is that so?

A. That's correct.

10 Q. And the reason I am asking, Lieutenant Neale mentioned he went off duty at four o'clock and we don't know yet whether Wayne Godfrey was at the Detective Bureau continuously all that time from 1:30 Tuesday afternoon, January 28, 1958, until 10:25 Wednesday morning, January 29. Now, can you tell us as a fact whether he was there all that time?

A. Yes, sir, he was.

Q. Now, how often would you say you questioned him during that period of time?

A. I'd say two or three times in and out.

Q. Two or three, were they prolonged periods of time?

20 A. No, just checking different parts of his story.

Q. Different parts of his story?

A. Yes.

Q. Well now, when was his story taken from him?

A. I think when he was first arrested he was asked some questions by some members of the City Detective Bureau as to his whereabouts on Friday evening, January 24, and in the vicinity of six o'clock or similar questions of that effect.

30 Q. Well now, were there notes or memoranda made of what he said when he was first questioned?

A. Not to my knowledge, no, sir.

(367a) Q. Well then, where did you get these points that you wanted to check with him on?

A. From the various city detectives.

Q. They related to you what Wayne Godfrey told them when he first was apprehended, is that right?

A. He probably told me some, too, yes, sir.

Philip Large—Cross

Q. Pardon?

A. He probably told me some, too, sir.

Q. Do you know that Wayne Godfrey slept at all between the time he was first apprehended at 1:30 Tuesday afternoon to Wednesday morning, 10:25 the following day, do you know if he got any sleep?

10

A. I know he was dozing off in the conference room when I was going in and out.

Q. When you went in you did see him dozing off?

A. Yes, sir.

Q. Did you awaken him?

A. No, sir, sometimes when I had to, and sometimes when I didn't have to, I'd awaken him for some other reason.

Q. When you went in and found him asleep, how did you awaken him?

20

A. Just talked to him, that's all.

Q. Well, did you shake him or just bang your fist on the table?

A. No, sir.

Q. How did you do it?

A. Just spoke to him, I said he was dozing off there, whether he was fully asleep I don't know, sir.

Q. Well now, when he was taken to the Prosecutor's office approximately 10:25 A. M. Wednesday morning, January 29, 1958, did he complain he was tired?

30

A. No, sir.

(368a) Q. Did he doze off at all during that interrogation?

A. No, sir.

Q. Well, did you at any time ever bang your fist on the table in his presence?

A. No, sir.

Philip Large—Cross

Q. Did you ever make any statements to him that you ought to be taken care of or something to that effect?

A. No, sir.

Q. Did you happen to notice whether he had shoes and socks on or not?

10 A. Yes, sir.

Q. Did he or did he not?

A. He did, sir.

Q. Both shoes and socks?

A. I believe so, yes, sir.

Q. Did you see him eat at all? There seemed to be some doubt when Lieutenant Neale testified, as to whether or not Godfrey actually ate the food. Do you know if he did?

A. I know he did.

20 Q. Did you see him eat it?

A. Yes, sir.

Q. Could you tell us what he was eating?

A. I know he ate the hamburgers and coffee that I paid for.

Q. How many, sir, if you can recall?

A. We bought quite few, divided up between them; I wouldn't know, sir.

30 Q. Can you give me any idea what period of time. I am concerned whether he had a little food at one time or whether he had food from time to time.

A. From time to time we were sending over to get coffee (369a) and sandwiches and coffee and hamburgers, other than what Mr. Neale spoke of his regular meal.

Q. Now, did he seem generally cooperative when he was questioned, did he seem generally cooperative?

A. Well, when he was first arrested he didn't admit anything, he didn't, it took a considerable bit of running out by the City and County detectives to check his story.

Philip Large—Cross

Q. When was the first time he made any admissions, if you know?

A. His admission of guilt?

Q. Yes.

A. When Chief Dube examined him in the Prosecutor's office.

10

Q. Before that time he made no admissions at all?

A. Not to me.

Q. Well, you did testify, I believe, that you questioned him from time to time, maybe two or three times, did he emphatically deny everything when you questioned him?

A. Yes, sir.

Q. Well, are you able to attribute anything to his change of heart?

A. No, sir.

Q. Was there anything that you saw or anything that you know that was done that would have changed his feeling?

20

A. No, sir.

Q. Can you tell me when you questioned him just prior to him being taken to the Prosecutor's office, can you give me the approximate time when that took place?

A. I would say it would be about prior to midnight on Tuesday, the 28th, or some time early in the evening because we had to go out on the street and I know it was some time before midnight.

30

(370a) Q. That was the last time then that you questioned him or heard him questioned; did you hear anyone else question him after midnight?

A. No, sir.

Q. And before the time you went to the Prosecutor's office?

A. No, sir.

Philip Large—Cross

Q. Do you know if anyone did?

A. No, sir, not to my knowledge.

Q. You mean you don't know if anyone did or no one did, to your knowledge?

10 A. I did not say no one did, because I was not there all the time.

Q. To your knowledge no one did?

A. Not to my knowledge.

Q. Do you know if there were any notes or memoranda or any written statements of any kind taken from Wayne Godfrey or made by others while he was held at the Detective Bureau?

A. Not to my knowledge at that time.

20 Q. No shorthand reporter was brought in during the period 1:30 Tuesday afternoon, the 28th of January, until approximately 10:25, Wednesday, the 29th of January?

A. Not until Fred Albert was brought in Wednesday morning at approximately nine o'clock.

MR. FLUHARTY: I have nothing further.

MR. HEINE: That's all.

(Witness excused.)

Fred W. Albert—Direct

(371a) FRED W. ALBERT, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

10

Q. Mr. Albert, were you present when the defendant, Wayne Godfrey, was interrogated by Chief Dube?

A. I was, sir.

Q. Where was he interrogated?

A. In Chief Dube's office in the Prosecutor's office.

Q. And was there anyone else present at the time?

A. Yes, Chief of the county detectives, Wilfred L. Dube, Lieutenant William Neale, Sergeant Vincent Conley, Captain Philip Large, Detective William Large and myself. 20

Q. Prior to his interrogation was anything said to Wayne Godfrey by Chief Dube?

A. Yes, sir, Chief Dube warned him of his rights.

Q. And did you or did you not hear Wayne Godfrey say that he knew what Chief Dube had warned him of, and that he was willing to make a voluntary statement?

A. I did.

Q. What did he say? He was or was not?

A. He was.

Q. Now, at the conclusion of his confession, were the 30 questions and answers read back to him?

A. Yes, they were.

Q. Who read the questions and answers back to him?

A. I did.

Q. Did he or did he not acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

Fred W. Albert—Cross

(372a) A. He did.

Q. Were any threats made to Wayne Godfrey?

A. None whatsoever.

Q. Were any promises made to him?

A. None.

10 Q. Was he intimidated in any manner?

A. No, he was not.

Q. Were any physical acts of violence or assault used?

A. No, there were not.

MR. HEINE: Cross-examine.

CROSS-EXAMINATION.

BY MR. FLUHARTY:

20

Q. Mr. Albert, during the course of the questioning while you were present was there anything that was said off the record?

A. Not that I recall.

Q. Any direction made to you that this will be off the record, Mr. Albert?

A. No, sir.

MR. FLUHARTY: That's all, I have nothing further.

30

(Witness excused.)

Wilfred L. Dube—Direct

(373a) WILFRED L. DUBE, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

10

Q. I understood you to say that your first interrogation of Wayne Godfrey concluded around twelve o'clock noon time.

A. That's correct.

Q. Was he interrogated later that day again?

A. At the time there were two or three questions asked him after the acknowledgment of the confession and then again later that night at 11:15 P. M.

Q. Now, who was present when you interrogated him the second time commencing 11:15 P. M.

20

A. Mr. Fred Albert, the stenographer, the defendant and myself.

Q. Now, did you warn him again of any of his rights?

A. The second time I explained to him that I had taken a statement from him that morning and that at this time I wanted to ask him some questions that he had omitted in the first statement.

I at that time told him that I was asking him questions concerning the hold-up and shooting of Mr. Edward Davis of the toy store at 1731 Broadway, and I again told him that everything he told me must be the truth, of his own free will, without any threats or promises having been made, and he agreed to answer these questions.

30

Q. At the conclusion of his confession ——

A. At the conclusion of the second interrogation, I told him that the Court Stenographer would read back my questions and his answers, after which, I would ask him

Wilfred L. Dube—Direct

another question, and I then left the room and Mr. Albert read back the questions and the answers.

Q. Did you return to the room?

A. Yes.

10 Q. Did he at anytime acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. He acknowledged the questions as the questions I had asked him and the answers as the answers he made to my questions.

Q. Were any threats made to the defendant?

A. There were no threats made, no sir.

Q. By "defendant" I mean Wayne Godfrey.

A. That is correct.

Q. Were any promises made to Wayne Godfrey?

20 A. No promises, no threats made to him.

Q. Were any physical acts of violence or assault used against him?

A. No.

Q. Was he intimidated in any manner?

A. No, sir, he was not.

Q. Do you recall what time the second interrogation concluded?

A. Shortly after midnight, about 11:35.

30 Q. Now, where was Wayne Godfrey, if you know, between twelve o'clock noon, when you concluded your first interrogation and 11:15 P. M., when you commenced your second interrogation?

A. He had gone to Newark with the officers.

Q. For what purpose?

A. To locate Sylvester Johnson.

MR. HEINE: You may cross-examine,

Wilfred L. Dube—Cross
Fred Albert—Direct

(375a) CROSS-EXAMINATION.

BY MR. FLUHARTY:

Q. Chief, do you know if Wayne Godfrey was ever advised that he was suspected of being implicated in this matter at all? 10

A. He told me he was in the matter, Mr. Fluharty.

Q. Pardon?

A. He told me he was in the matter. I didn't have to tell him. He told me he was in it.

Q. But you yourself, or no one else that you know of, ever told him?

A. I told him what I was investigating, and I told him about the hold-up and the shooting, and from that point he began to tell me what he had to do with it. 20

MR. FLUHARTY: Nothing further.

FRED ALBERT, previously sworn.

DIRECT EXAMINATION.

BY MR. HEINE: 30

Q. Mr. Albert, were you present at the time when the defendant, Wayne Godfrey, was interrogated the second time by Chief Dube, commencing at 11:15 P. M. on Wednesday, January 29, 1958?

A. I was.

Fred Albert—Direct

(376a) Q. Who else was present?

A. Chief Dube, I and the defendant.

Q. Prior to the interrogation did you, or did you not, hear Chief Dube say anything to him concerning his rights?

A. Yes. Chief Dube warned him of his rights.

10 Q. Did you, or did you not hear Wayne Godfrey say that he was willing to make a voluntary statement?

A. I did.

Q. At the conclusion of the second confession were the questions and answers read back to him?

A. They were.

Q. Who read it back to him?

A. I did.

20 Q. Did Wayne Godfrey acknowledge or not, the correctness of the questions asked of him and the answers given by him in response to those questions?

A. He did.

Q. He did acknowledge the correctness thereof?

A. He did.

Q. Were any threats made to the defendant, Wayne Godfrey?

A. None whatever.

Q. Were any promises made to him?

A. None.

30 Q. Were any physical acts of violence or assault used against him?

A. None.

Q. Was he intimidated in any manner?

A. No.

MR. HEINE: You may cross-examine.

MR. FLUHARTY: No questions.

Discussion

(377a) MR. CAGGIANO: No questions.

MR. HEINE: Excuse me, what time did the second interrogation conclude?

THE WITNESS: 11:35 P. M. 10

MR. HEINE: That is all.

MR. FLUHARTY: May the record show that I am now having a conference with my client, Wayne Godfrey.

(Mr. Fluharty and defendant, Wayne Godfrey, are conferring.)

MR. FLUHARTY: I have nothing further. 20

THE COURT: No evidence is being presented on behalf of the defendant, Godfrey, as to the involuntary nature of the confession.

MR. HEINE: I propose, if the Court please, to offer the confession of Wayne Godfrey, the two confessions of Wayne Godfrey.

THE COURT: It is the Court's personal determination 30
that the confession or confessions of the defendant, Godfrey, are voluntary.

MR. HEINE: Shall we start on the third?

MR. FLUHARTY: Could we take a short break and then start. We will stay right with it until we finish.

Discussion

(378a) THE COURT: We will take a short recess.

(Recess taken.)

(After recess.)

10

MR. FLUHARTY: If the Court please, Your Honor has ruled. However, I would like to object to the admission in evidence of the confession of the alleged confession, of Wayne Godfrey, on the basis that it was taken after a prolonged period of interrogation from 1:30 Tuesday afternoon, January 28, 1958, until sometime after eleven o'clock, January 29, 1958, the following day.

20 I feel that this was not fair and that this influenced the defendant in the making of a statement to such an extent that he no longer had control of his faculties and could not properly reflect upon what he was saying.

MR. BERTMAN: If Your Honor pleases —

30 THE COURT: Just a moment. I want the record to reflect that I did not rule on that application by the Prosecutor without giving the defendant an opportunity to be heard. When defendant's counsel did not rise following the motion by the Prosecutor, I assumed that he had no objection to the offer and I thereby ruled. But, since the recess counsel has reconsidered and has officially made the objection a matter of record.

I feel now that the evidence justifies the conclusion that the confession or the confessions of the defendant, Wayne Godfrey, were voluntary.

MR. BERTMAN: May I make a motion at this time, if His Honor please. As you well know, demand was made

Discussion

(379a) by defense counsel to have a copy of these confessions and after having received them I have read the confessions. In reading these confessions, it is evident that these confessions contain an abundance of hearsay and that no amount of contact or continuous perusal of these confessions, or stipulation, will avail counsel anything that might be deleted to such an extent that these confessions could go into the record, or be read to the jury without doing the defendant, Sylvester Johnson irreparable harm. 10

If Your Honor please, I am fully aware of the ruling of the Court in the Rios case, State vs. Rios case, and cases before that, where the Courts have held that even though the confessions made contain hearsay, that the Court can correct that particular situation by making a charge to the jury to the effect that they should disregard the hearsay evidence. 20

If Your Honor please, I wish to point out that in most instances it is even difficult for learned attorneys and judges to distinguish what may be considered hearsay and what is not hearsay evidence, and to cast such a burden upon this jury I think is casting too heavy a burden and I feel that no matter what kind of chopping we may do to delete these confessions, that to permit the confession of Wayne Godfrey—and I make this objection too, although it perhaps may not be timely, and I am asking Your Honor to consider this objection insofar as Cassidy's confession is concerned, to be timely—that both their confessions contain so much hearsay that no amount of instruction by the Court would make it possible for the jury to delete the good from the bad, and to permit these in will not give my client, Sylvester Johnson, the opportunity to have a fair and impartial trial. 30

Discussion

(380a) THE COURT: Mr. Bertman, I do not know why you are making your motion at this time.

I understood that we were going to proceed on the question of whether or not the confession of your client was voluntary.

10

MR. BERTMAN: That is true. The reason I am making, if Your Honor pleases, is because you have ruled that the Godfrey confession should be in evidence.

THE COURT: I said it was voluntary.

MR. BERTMAN: Or that it was taken voluntarily.

We can then, naturally, go a step further and say that it can be put into evidence.

20

I should have made the motion before Your Honor ruled on the Cassidy confession.

I asked Your Honor to consider my motion as having been made in connection with the Cassidy confession also.

I say that now that your Honor has ruled that these two confessions are voluntary, and they may be read into evidence, I say that I feel that the motion is in order at this time for the reasons I have stated.

30 THE COURT: There is nothing before me to pass upon right now, sir. That is why I think the motion you are making is premature.

MR. BERTMAN: Do you mean because you have not read the confession?

THE COURT: They have not even been offered yet.

Wilfred Dube—Direct

MR. BERTMAN: All right, I will do it at that time, sir.

(381a) MR. HEINE: Chief Dube.

WILFRED DUBE, previously sworn.

10

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Chief Dube, were you present when the defendant, Sylvester Johnson, was interrogated?

A. Yes, I was.

Q. Where did the interrogation take place?

20

A. In my office in the Court House, the Prosecutor's office on the Sixth Floor of this building.

Q. Was there anyone else present at the time?

A. There was Sergeant Conley, Lieutenant William Neale, Detective William Large, myself and the official court stenographer.

Q. What was the stenographer's name?

A. Mr. Fred Albert.

Q. Prior to this interrogation, was anything said to the defendant, Sylvester Johnson?

30

A. Yes. I told him that he was in the Prosecutor's office in the Court House, on the Sixth Floor, that he was presently in my office. I introduced myself to him and told him who I was.

I introduced Lieutenant Neale, Sergeant Conley, as members of the City Detective Bureau in Camden.

I introduced Detective William Large as a County De-

Wilfred Dube—Direct

tective and introduced Mr. Fred Albert as the Official Court Stenographer.

10 (382a) After that I told him that on Friday night, January 24th, the Friday past, that there had been a hold-up at a toy store at 1731 Broadway, in which a man by the name of Mr. Edward Davis was shot and as a result of that shooting died a short time later in the Cooper Hospital.

I told him that I wanted to ask him some questions as to what he knew of this hold-up and shooting, but before I would ask him these questions, it was my duty to warn him that everything he told me must be the truth, is of his own free will, without any threats or promises having been made to him, and knowing that anything he told me could be used against he or any other person at some future time.

20 I then asked if he understood everything I told him and he said he did.

I asked him would he answer my questions and he said he would, and the interrogation began.

Q. At the conclusion of this confession, were the questions and answers read back to him?

A. At the conclusion of the confession, I told him that the Court Stenographer, Mr. Albert, was going to read back all of my questions and all of his answers, and that after that I would have another question to ask him.

30 I then left the room, along with Detective Large, Sergeant Conley and Lieutenant Neale.

After Mr. Albert had read back the questions and answers to Mr. Johnson, I came back into the room and I asked him if he had heard the questions and answers read to him.

He said he had and I then asked him if he would acknowledge the fact that the questions read to him were as I

Wilfred Dube—Cross

asked him and that the answers he made to them were as he answered my questions, and he said that they were.

(383a) Q. Were any threats made to the defendant, Sylvester Johnson?

A. No, there were none.

Q. Were any promises made to him?

10

A. No, there were not.

Q. Was any physical act of violence or assault used?

A. No.

Q. Was he intimidated in any manner?

A. Not in any manner, sir.

MR. HEINE: You may cross-examine.

CROSS-EXAMINATION.

20

BY MR. BERTMAN:

Q. Chief Dube, there were no threats or physical violence, or intimidation so far as you were concerned, was there, to this defendant, Sylvester Johnson.

A. I don't understand that, Mr. Bertman.

Q. You did not make any threats or intimidate him in any way?

A. No, sir, I did not.

Q. You do not know then what happened to this defendant before you saw him, do you?

30

A. I certainly don't know what happened to him when he was not in my presence.

Q. Therefore, you would not know whether there were any previous threats or intimidations made?

A. The Prosecutor asked me at the time of this interrogation whether there were any threats or hints of physical violence, and I said that there were not, and there were not.

Wilfred Dube—Cross

Q. What is that?

(384a) A. There were no threats or physical violence offered to him at the time of the investigation.

Q. Insofar as you were concerned, or anyone in your presence?

10 A. That is correct.

Q. All right. He was picked up in Newark on the previous day about five o'clock, and what time was it when you saw him.

A. Around 4:45 in the morning, Thursday, January 30th.

Q. You do not know what was said to him, or what might have been done to him from the time he was picked up in Newark up until the time you received him, do you?

A. I can only tell what happened when he was in the room with me, sir.

20 Q. All right.

Was there any evidence of the use of narcotics so far as this defendant was concerned?

A. What do you mean by that, Mr. Bertman?

Q. Was there any evidence to you that, perhaps, this defendant was a user of narcotics in any way?

A. No. There was no evidence of that of any kind.

30 Q. Chief, during the questioning and answering period, were there intervals during the questions and answers where you would cease having the questions and answers taken by the official stenographer and have conversations with Johnson which you might say were off the record?

A. No, sir.

Q. In other words, from the moment that you began interrogating Sylvester Johnson at about 4:45 A. M., for forty-two pages, there was no break or any conversation between you and Johnson that was not contained in this confession?

Wilfred Dube—Cross

A. Everything that was said in that room from the time (385a) I began the interrogation until Mr. Johnson concluded is in that record.

Q. Did you ever take Mr. Johnson out of the room?

A. No, sir.

Q. You never took him out of the room and had conversation with him? 10

A. No, sir.

Q. How long did the confession take?

A. I would think about an hour-and-a-half.

Q. And every word uttered, every word of your questioning and every word of Johnson's answers, were taken down?

A. That is what the stenographer was there for, sir.

Q. You then mean to say, you mean to say that there was no break or any conversations between you and Johnson? 20

A. Mr. Johnson narrated to me what he had done and answered my questions. Everything that was said by either he or I was reported by the stenographer.

Q. Were not there occasions when, perhaps, something might not have been clear either to the defendant in the form of your question, or sometimes, where his answers may not have been clear to you, and you discussed it with the defendant off the record?

A. I believe you will see, sir, in the record, that there were times when I did not understand what he said, and I reasked the question, and he answered it for me, and if he did not understand what I said, he asked me and I put the question to him again. 30

BY MR. BERTMAN:

Wilfred Dube—Re-direct

Q. Now then, it is your testimony here that it ran about an hour and a half?

(386a) A. I would say about an hour and a half, judging by the length of the other confessions, they were all running about that time.

10 Q. You say here it is your testimony for one hour and a half there is absolutely no break whatsoever, that everything that was said in that room was taken down.

A. When you are taking a confession, everything is taken down and continue until it is finished.

MR. BERTMAN: I have nothing further.

RE-DIRECT EXAMINATION.

20 BY MR. HEINE:

Q. Chief Dube, were there any evidence that you could see on Mr. Johnson's person that he had been subjected to any acts of physical violence?

A. No, sir.

Q. Did Sylvester Johnson complain of lack of sleep?

A. He did not.

Q. Did he ever ask time to sleep?

A. He did not.

30 Q. Did he ever ask time to sleep?

A. He did not.

Q. Did he ever ask for a rest?

A. No, sir.

MR. HEINE: That's all.

Wilfred Dube—Re-cross

(387a) RE-CROSS EXAMINATION.

BY MR. BERTMAN:

Q. Well, Chief Dube, you have taken probably a thousand statements or confessions, probably a lot more than 10
that during the course of your career as a law enforcement officer. Now, do you consider it from your experience to be a fair and proper time to take confessions of an accused after he has had a complete sleepless night? Do you think that at that particular point that he is at his best to answer questions clearly and properly?

MR. HEINE: If your Honor pleases, I object to this question on several grounds, one, apparently he has been asked now for an expert opinion and I could qualify the 20
chief as an expert in taking confessions; secondly, there is a hypothesis as to the sleepless night and ——

THE COURT: That's right, there is no proof, it is a hypothetical question, no facts to support it.

MR. HEINE: No foundation laid for it.

MR. BERTMAN: Well, assuming ——

THE COURT: There was some testimony that this fellow was in the jail and he might have had some sleep in the Newark jail. 30

MR. BERTMAN: He said they didn't know.

THE COURT: You are making a definite statement he did not have,

Lieutenant William Neale—Direct

(388a) MR. BERTMAN: Let's assume I put the defendant on the stand and he said that, why could I put this witness on?

THE COURT: You could call him as your witness.

10

MR. BERTMAN: Then I subject him to cross-examination by the State, if your Honor pleases.

THE COURT: You have been asking a hypothetical question to qualify him as an expert.

MR. BERTMAN: I have nothing further.

(Witness excused.)

20

LIEUTENANT WILLIAM NEALE, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

30 Q. Lieutenant, were you present when defendant, Sylvester Johnson, was interrogated by Chief Dube?

A. Yes, I was.

Q. Where did that interrogation take place?

A. That interrogation took place in Chief Dube's office in the Prosecutor's office in this building on the sixth floor.

Q. Who, if anyone, was present at the time?

A. Detective William Large of the County Detectives, Sergeant Vincent Conley of the Camden Police Depart-

Lieutenant William Neale—Direct

ment, myself, of course, Chief Dube, and the defendant and Mr. Fred Albert, the Official Court Stenographer.

(389a) Q. Now, prior to the interrogation of the defendant, Sylvester Johnson, did you or did you not hear Chief Dube warn him of his rights?

A. Yes, I did. 10

Q. Did you or did you not hear the defendant, Sylvester Johnson, offer to make a voluntary statement?

A. Yes.

MR. BERTMAN: I object to that, if your Honor pleases.

THE COURT: It may be leading, Mr. Prosecutor.

MR. BERTMAN: Not only that, the word "voluntary" is certainly calling for a conclusion. 20

THE COURT: That's right.

MR. HEINE: I will withdraw the question.

THE COURT: It is withdrawn.

MR. HEINE: And ask the answer be stricken.

BY MR. HEINE: 30

Q. Did you hear the defendant, Sylvester Johnson, say anything in response to Chief Dube's warning?

A. Yes, I did.

Q. What did Johnson say?

A. He stated that he was willing to make a statement.

Q. Now, were you present at the conclusion of his con-

Lieutenant William Neale—Cross

fession when the questions and answers were read back to him?

(390a) A. No, sir, I was not.

Q. Were you present after the questions and answers were read back to him?

10 A. Yes, sir, I was.

Q. Did you or did you not hear Sylvester Johnson acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. Yes, I did.

Q. Were any threats made to the defendant, Sylvester Johnson?

A. No.

Q. Were any promises made to him?

20 A. No, sir.

Q. Were any physical acts of violence or assault used against him?

A. No, sir.

Q. Was he intimidated in any manner?

A. Absolutely not.

MR. HEINE: Cross-examine.

CROSS-EXAMINATION.

30

BY MR. BERTMAN:

Q. When did you first see him, Lieutenant Neale?

A. I first saw him in the Prosecutor's office.

Q. That was about four-thirty or four forty-five?

A. Yes.

Sergeant Vincent Conley—Direct

Q. Around that time?

A. Yes, sir.

(391a) MR. BERTMAN: Nothing further.

(Witness excused.)

10

SERGEANT VINCENT CONLEY, recalled.

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Sergeant Conley, were you present when the defendant, Sylvester Johnson, was interrogated by Chief Dube? 20

A. I was.

Q. Where did the interrogation take place?

A. Chief Dube's office in the Prosecutor's office.

Q. Was there anyone else present at the time?

A. Yes.

Q. Who else was present?

A. Detective William Large, Lieutenant Neale, myself, and defendant and court stenographer, Fred Albert.

Q. Did you hear Chief Dube say anything to the defendant, Sylvester Johnson, concerning his rights prior to the interrogation? 30

A. Yes, I did.

Q. Did you hear the defendant, Sylvester Johnson, make a response to Chief Dube's warning?

A. Yes, I did.

Q. What did Sylvester Johnson say?

Sergeant Vincent Conley—Cross

A. He said he would make a statement.

Q. Were you present at the time when the questions and answers were read back to him?

(392a) A. No.

Q. Did you re-enter the room?

10 A. Yes, later.

Q. Did you or did you not hear Sylvester Johnson acknowledge the correctness of the questions asked of him and the answers given by him in response to those questions?

A. Yes, I did.

Q. And did he acknowledge the correctness of those?

A. Yes, he did.

Q. Were any threats made to the defendant, Sylvester Johnson?

20 A. No, sir.

Q. Were any promises made to him?

A. No, sir.

Q. Were any physical acts of violence or assault used against him?

A. No, sir.

Q. Was he intimidated in any manner?

A. No, sir.

MR. HEINE: You may cross-examine.

30

CROSS-EXAMINATION.

BY MR. BERTMAN:

Q. You picked him up in Newark?

A. That's right.

Q. And what time was it?

Sergeant Vincent Conley—Cross

A. Approximately five o'clock.

Q. That was the day before the confession?

A. That's right.

(393a) Q. Then you took him to the Newark jail?

A. That's right.

Q. And he was questioned by Detectives in Newark, 10
wasn't he?

A. Not to my knowledge, he wasn't, the Newark City
detective?

Q. Yes.

A. Not to my knowledge.

Q. Was he questioned in the Newark jail or Newark De-
tective Division?

A. Not to my knowledge, no, he was taken there and
put in —

Q. Did you question him when you picked him up? 20

A. Picked him up, I had a warrant, and told him he was
accused of murder.

Q. Did you connect him with the crime with which he
was charged?

A. I asked him if he did it.

Q. What did he say?

A. At that time he said no.

Q. Was that the end of your questioning, did you stop
right there and then?

A. Yes, sir. 30

Q. You mean to say that you as an officer, detective of
the City of Camden, knew that this man was charged with
murder, and that the only questioning you gave this man
was, "Did you do it?" and he said no, and you stopped right
there and then.

A. At that time, yes.

Q. Well, let me know what else you asked him and when,
how long did the interrogation take place?

Sergeant Vincent Conley—Cross

A. On the way back from Newark we asked him, I asked him several questions.

(394a) Q. And there were others with you that asked him questions, too?

A. They may have.

10 Q. They were within your hearing, weren't they?

A. Yes.

Q. Well, did they or didn't they?

A. They may have, I don't recall what questions, there was conversation in the car.

Q. Conversation. All right. And after he was taken to the jail, in Newark, then he had a hearing, didn't he?

A. Yes.

Q. For night court?

A. Yes.

20 Q. What time did the hearing start at night?

A. That was the early evening, I'd say eight or nine o'clock, I am not too sure what time it was.

Q. How long did the hearing take?

A. We were there about a half hour, three-quarters of an hour.

Q. He was booked in the Newark jail?

A. Back in the Newark jail.

Q. Then you picked him up at two?

A. Approximately that time.

30 Q. And drove him to Camden?

A. Right.

Q. Got here around four or so?

A. Approximately four o'clock, that's right.

Q. And then you took him to the Camden City Detective Bureau?

A. Took him directly to the Prosecutor's office.

Q. Prosecutor's office?

William Large—Direct

A. That's right.

Q. Did you turn him over to Chief Dube?

(395a) A. That's right.

Q. Were you present when the questioning took place?

A. That's right.

Q. Now, you don't know whether he had been sleeping 10
when you picked him up in Newark at five?

A. He was sitting watching television, in the apartment.

Q. Was he clothed?

A. Yes.

Q. He was dressed?

A. Yes.

MR. BERTMAN: That is all.

MR. HEINE: That's all. 20

(Witness excused.)

WILLIAM LARGE, previously sworn.

DIRECT EXAMINATION.

BY MR. HEINE: 30

Q. Detective Large, were you present when the defend-
ant, Sylvester Johnson, was interrogated by Chief Dube?

A. I was.

Q. Where did the interrogation take place?

A. Chief Dube's office on the Sixth Floor of the Court
House.

William Large—Direct

Q. Was there anyone else present at the time?

A. Lieutenant Neale, Sergeant Conly, Chief Dube, and the Official Stenographer, Fred Albert.

(396a) Q. Prior to his interrogation, did you hear Chief Dube warn the defendant, Sylvester Johnson, of his rights?

10 A. Yes, I did, sir.

Q. Did you hear Sylvester Johnson make any response to his warning?

A. He answered that he understood and would make a statement.

Q. Were you present when the questions and answers were read back to Sylvester Johnson?

A. I was not.

Q. Were you present in a room when Chief Dube asked him to acknowledge the correctness of the questions and
20 answers, or not?

A. I was.

Q. Did he, or did he not, acknowledge the correctness of the questions asked of him, and the answers given by him in response to those questions?

A. He acknowledged them and said that it was a true statement he had given.

Q. Were any threats made to the defendant, Sylvester Johnson?

A. No.

30 Q. Were any promises made to him?

A. No.

Q. Were any physical acts of violence or assault used?

A. No.

Q. Was he intimidated in any manner?

A. No, sir.

MR. HEINE: You may cross-examine.

William Large—Cross
Vincent Conley—Cross

(397a) CROSS-EXAMINATION.

BY MR. BERTMAN:

Q. Did you accompany the officers to Newark? 10

A. No, sir.

MR. BERTMAN: I have nothing further from this witness. May I ask Sergeant Conley one more question?

THE COURT: Yes.

VINCENT CONLEY, previously sworn. 20

CROSS-EXAMINATION.

BY MR. BERTMAN:

Q. Now, when you started talking to this defendant in Newark, you asked him whether or not he had anything to do with this. His answer was no, was it not?

A. I told him he was charged with murder and he said no, he didn't want to do it at that time. 30

Q. Did you then relate to him that Cassidy and Godfrey had been apprehended?

A. On the way back in the car one of the conversations we had, we told him that Cassidy and Wayne Godfrey had been picked up.

Q. Did you not relate to him that Cassidy and Godfrey had implicated him?

Vincent Conley—Cross

(398a) A. We told him that he had been named as the trigger man.

Q. And you told him that Cassidy and Godfrey had said that. Isn't that right?

A. That's right.

10 Q. Is it not the fact that his reply to that was that he didn't remember what had taken place, but that—I am not quite finished yet—but that anything that he would have to tell you about it would only be what Godfrey or Cassidy had told him, but not as of his own recollection? Do you understand my question?

A. Truthfully, no.

20 MR. HEINE: Just a moment. I want to object to this question and this whole line of questioning because the only matter that we are concerned with is the voluntariness of the confessions and not as to any prior confession or the contents of this confession.

THE COURT: That is true. These things might have transpired before. We are only concerned now with whether this confession was voluntary, not what his condition might have been at the time, or whether he committed a murder, or anything like that. It is whether any force, intimidation, promises were made to secure the confession.

30 MR. BERTMAN: If Your Honor please, I am well aware of that. My client feels that I should ask these questions.

THE COURT: I have sustained the objection.

MR. BERTMAN: I wanted him to understand why.

Fred W. Albert—Direct

(399a) MR. HEINE: I think it is only fair to say that there will be further opportunity to make these same points.

MR. BERTMAN: I have nothing further.

10

FRED W. ALBERT, previously sworn.

DIRECT EXAMINATION.

BY MR. HEINE:

Q. Mr. Albert, were you present when the defendant, Sylvester Johnson, was interrogated by Chief Dube?

A. I was.

20

Q. Where did the interrogation take place?

A. In the Prosecutor's Office in this building.

Q. At what time did the interrogation commence?

A. At 4:45 A. M.

Q. Was there anyone else present at the time?

A. Yes, sir.

Q. Who?

A. Chief of County Detectives, Wilfred L. Dube, Lieutenant William Neale, Sergeant Vincent Conley, Detective William Large, and I.

30

Q. Prior to his interrogation, was anything said to the defendant, Sylvester Johnson, by Chief Dube?

A. Yes, sir.

Q. What was said?

A. Chief Dube warned him of his rights.

Q. Did Sylvester Johnson make any answer to Chief Dube's warning?