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MRS. ROY BRYANT,

A witness introduced for and on behalf of the defendants,
being first duly sworn, upon her oath testified as follows:

DIRECT EXAMINATION

BY MR. CARLTON:

Q What is your name, please, ma'am?

A Mrs. Roy Bryant.

Q You are the wife of one of the defendants in this
case, the defendant Roy Bryant, is that right?

A Yes, Sir.

Q How old are you, Mrs. Bryant?

A Twenty one.

Q And how tall are you?

A Five feet, two inches.

Q How much do you weigh, Mrs. Bryant?

A One hundred and three pounds.

Q Do you have any children?

A Yes.

Q What are those children's names?

A Roy Bryant, Jr., and Thomas Lamar Bryant.

Q And they are both boys, I believe?

A Yes.

Q What is Roy Jr's age?

A He is three.

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Q And how old is Thomas Lamar?

A Two.

Q How old is your husband, Mrs. Bryant?

A Twenty four.

Q When were you all married?

A April 25th, 1951.

Q Did Roy serve in the Armed Forces?

A Yes.

Q When did he enlist in the Armed Forces?

MR. SMITH: We object, Your Honor. That is incompetent, immaterial and irrelevant.

THE COURT: The objection is overruled.

Q When did he enlist in the Armed Forces?

A In June of 1950.

Q That was about ten months, I believe, before you married?

A Yes.

Q How long did he stay in the service?

A Three years.

Q Did he get out in about June of 1953 then?

A Yes.

Q Now Mrs. Bryant, I direct your attention to Wednesday night, on the 24th day of August, on that evening, who was in the store with you?

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MR. SMITH: If the Court please, we object to anything that happened on Wednesday evening unless it is connected up.

MR. BRELAND: We will connect it.

THE COURT: Will the jury please retire to the jury room.

(The jury retired to the jury room, and the proceedings continued in the absence of the jury.)

MR. CARLTON: If the Court please, it is the position of the defendants in this case that on the direct examination of Mose Wright by the State, the state showed that one of the men who came to the home of Mose Wright on the night of Wednesday, the 24th day of August, testified that one of these men wanted to see the boy that did the talking down at Money.

The State having introduced that testimony has raised inferences which the defendants believe they are entitled to explain and to show what happened.

And the State having opened the inquiry as to the occurrences on that occasion has given the defendants the right to explain those occurrences.

And further the defendants believe that these occurrences are a part of what the state alleges is one entire transaction, the beginning and inception of the

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incident. And as much, the occurrences there on that occasion are a part of the res gestae of the case. And as such the defendants should be permitted to offer testimony in that particular.

MR. SMITH: If the Court please, I don't know on what statement Mr. Carlton bases his idea or his statement that we opened the thing up for anything that happened on Wednesday prior to that particular Sunday morning. Our proof started with the occurrence on Sunday morning at two o'clock when two or more persons came to Mose Wright's house for the boy. And we went from there on with our evidence and proof.

We have offered no proof whatsoever of anything that happened prior to that time. And Mrs. Bryant has not been brought into this thing whatsoever. And I think I am safe in saying that her name has not even been mentioned in this case.

The Supreme Court of Mississippi has many times held that former difficulties were not a part of the res gestae cannot be brought in as evidence. In other words, in a series of occurrences which might chronologically follow one another in a short space of time, the Supreme Court has ruled that those things are not competent if they are not a part of the res gestae. And I am sure Your

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Honor is familiar with that more than I am.

And there have been numerous cases of homicide and assault, where parties would have some difficulty one day and then the next day they might meet up and some other trouble or altercation take place between them.

And we contend that anything whatsoever that happened down there on Wednesday is no justification for murder anyway. And we feel that _ wholly incompetent and irrelevant in this case. Anything that happened prior to those men going down to Mose Wrights' house is certainly not competent to bring in here.

MR. BRELAND: If the Court please, I believe the prosecution has looked at these things and the Supreme Court rulings in a different light than _.

And I would like to call the attention of the Court to the fact that the Supreme Court has ruled that an incident may be separated by days, and by weeks even, but if they can be connected as part or partial of a man's transaction, then it doesn't mean that these things must all happen right together.

If any of the happenings can be connected up and it forms a background for a later happening, then that can be considered as part of an entire transaction. And I believe the Supreme Court has ruled on that several times in the past.

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THE COURT: Gentlemen, as the Court understands our Supreme Court decisions relating to such evidence, evidence of prior difficulties may be introduced providing that it can be considered a part of the res gestae, and particularly where there has been any altercation, or a difference, or an incident between parties, and the deceased is shown to be the aggressor, or when there is any question of doubt as to who might have been the aggressor, then such evidence would be admissible. But without such a showing it would not be admissible.

MR. WHITTEN: Excuse me, Your Honor, but I don't think that is our strongest point in our argument. In the first place, the State, by its own witness, has raised in the minds of this jury some question as to whether what happened down there at the store in Money was just mere talk.

But it was not only stated just one time to the jury, but it was repeated two other times, as I recall, that the reason these men were down there was because they wanted to see the boy that had done the talking down at Money.

And we believe that where the State raises or puts in evidence any testimony, even though it might be immaterial to the issues, we say that the accused must

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have an opportunity to explain it or develop it further to show the jury all the facts.

THE COURT: The Court is of the opinion that any accused in any criminal case can bring out anything relating to a continuation of any part of an alleged crime. But the testimony that is being offered here of details of a prior incident, I do not believe that is admissible.

And the Court's recollection of the testimony was that Mose Wright testified that the defendant, J. W. Milam, stated that he wanted the boy that did the talking over at Money. And I believe there was another reference in the testimony where they said something about the boy that did the talking over at Money or down at the store in Money. But the Court is of the opinion that evidence of the details of what occurred there at the store on that particular evening is not permissible here.

MR. BRELAND: And another thing, Your Honor, we contend that whatever might be competent in evidence as to these defendants is also competent with reference to their families, because they have the same right to protect their families as they do themselves.

THE COURT: That would be perfectly true with reference to the statement I made in the beginning relating to prior incidents or conflicts between parties, and members of

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their immediate families would also be included in that.

But that is admissable in evidence under our Supreme Court decisions only where some question as to who was the aggressor at the time the crime with which they might be charged was committed, or that some overt act was committed by the deceased at that time to make such evidence of prior conflicts, or prior difficulties, or prior relations between the parties, that can only be brought out and shown when such a question arises. And then such evidence where the immediate family is concerned would be admissable in evidence.

MR. BRELAND: We wish to develop the testimony for the sake of the record, Your Honor.

THE COURT: That is the Court's understanding under the rules and laws of evidence of the State of Mississippi in cases such as this. You may now proceed.

Q Mrs. Bryant, on Wednesday evening or Wednesday night, the 24th day of August, 1955, did anyone - - who was in the store with you that night?

A No one.

Q You were alone in the store at the time?

A Yes.

Q Was there anyone in the living quarters at the rear of the store?

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A Yes.

Q Who was back there?

A Mrs. Milam and her two children and also our two children.

Q Did any incident occur in that store on that evening which made an impression on you?

A Yes.

Q And what time of the evening was that?

A About eight o'clock.

Q Was that before or after dark?

A After dark.

Q Just tell the Court what happened there at that time, please, ma'am.

A This nigger man came in the store and he stopped there at the candy case.

Q And in the store, where is the candy case located?

A At the front of the store.

Q And on which side is it?

A It is on the left side as you go in.

Q And that is the first counter there, is that right?

A Yes, Sir.

Q Now, is the store, with reference to that candy counter, is there anything back of the candy counter towards the wall of the store?

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A No.

Q Is there any place to walk there or anything of that sort?

A Yes, an aisle.

Q When this negro man came in the store, where were you in the store?

A I was farther back in the store, behind the counter.

Q Where were you in the store when this man came in?

A I was farther back behind the counter.

Q Were you on the same side or on the other side?

A The same side.

Q And when he came in, I believe you said he stopped in front of the candy counter, is that right?

A Yes.

Q And what did you do then?

A I walked up to the candy counter.

Q And what transpired up there at the candy counter?

A I asked him what he wanted.

Q And did he tell you?

A Yes.

Q Do you know what it was he asked for?

A No.

Q And did you then get the merchandise for him?

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A Yes. I got it and put it on top of the candy case.

Q And what did you do then?

A I held my hand out for his money.

Q Which hand did you hold out?

A My right hand.

Q Will you show the Court how you held your hand out?

A I held out my hand like this (demonstrating by holding out her hand).

Q Which hand was that?

A My right hand.

Q And will you show the Court how you did that?

A Like this (demonstrating by holding out her hand).

Q And did he give you the money?

A No.

Q What did he do?

A He caught my hand.

Q Will you show the Court just how he grasped your hand?

A Like this (demonstrating with her hand).

Q By what you have shown us, he held your hand by grasping all the fingers in the palm of his hand, is that it?

A Yes.

Q And was that a strong grip or a light grip that he

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had when he held your hand?

A A strong grip.

Q And will you show the Court what you did? How did you get loose?

A Well, I just jerked it loose, like this (demonstrating).

Q It was about that difficult to get loose, was it?

A Yes.

Q And it was with that much difficulty that you got your hand loose?

A Yes.

Q Just what did he say when he grabbed your hand?

A He said, "How about a date, baby?"

Q When you freed yourself, what happened then?

A I turned around and started back to the back of the store.

Q You did what?

A I turned to get to the back of the store.

Q Did you do anything further then?

A Yes. He came on down that way and he caught me at the cash register.

Q You say he caught you?

A Yes.

Q How did he catch you?

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A Well, he put his left hand on my waist, and he put his other hand over on the other side.

Q How were you going down along the counter there? Did he approach you from the front, or from the rear or how?

A From the side.

Q Now, Mrs. Bryant, will you stand up and put my hands just where he grasped you? Will you show the Court and jury?

A It was like this (demonstrating by putting Mr. Carlton's hands on her body).

Q He grabbed you like that, did he?

A Yes.

Q In other words, with his left arm around your back?

A Yes.

Q And his left hand on your left hip?

A Yes.

Q And he had his right hand on your right hip?

A Yes.

Q Did he say anything to you then at the time he grabbed you there by the cash register?

A Yes.

Q What did he say?

A He said, "What's the matter, baby? Can't you take

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it?"

Q He said, "What's the matter, baby? Can't you take it?"

A Yes.

Q Did you then try to free yourself?

A Yes.

Q Was it difficult? Did you succeed in freeing yourself?

A Yes.

Q Did he say anything further to you at that time?

A Yes.

Q What did he say?

A He said, "You needn't be afraid of me."

Q And did he then use language that you don't use?

A Yes.

Q Can you tell the Court just what that word begins with, what letter it begins with?

A (The witness did not answer verbally, but shook her head negatively.)

Q In other words, it is an unprintable word?

A Yes.

Q Did he say anything after that one unprintable word?

A Yes.

Q And what was that?

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A Well, he said - - well - - "With white women before."

Q When you were able to free yourself from him, what did you do then?

A Then this other nigger came in the store and got him by the arm.

Q And what happened then?

A And then he told him to come on and let's go.

Q Did he leave the store willingly or unwillingly?

A Unwillingly.

Q How did the other negro get out of the store then?
How did they leave?

A He had him by the arm and led him out.

Q Were there any white men in the store at the time this occurred?

A No.

Q Were there any other negro men in the store at the time?

A No.

Q Were there any other persons outside the store?

A Yes.

Q Were they white men or colored men?

A Colored.

Q Were there a number of them out there? How many of them were out there?

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A Oh, about eight or nine.

Q When he went out the door, did he say anything further after he had made these obscene remarks?

A Yes. He turned around and said, "Good-by."

Q And when he got out the door, what did you do?

A I called to Mrs. Milam to watch me and then I ran out the door to go to the car.

Q Which car did you go to?

A Mrs. Milam's.

Q What did you go to the car for?

A For my pistol.

Q Where was your pistol in the car?

A Under the seat.

Q It was under which seat?

A The driver's seat.

Q As you went out the door and went to the car, did you see this man again?

A Yes.

Q Where was he then? Where was he standing?

A He was standing by one of the posts on the front porch.

Q Your store has a front porch to it?

A Yes.

Q And these posts are on the front porch?

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A Yes.

Q Did he say or do anything at that time?

A He whistled and then came out in the road.

Q Can you give a sound something like the whistle that he made there? Was it something like this? (Mr. Carlton demonstrated by giving two low whistles.)

A Yes.

Q When you got your pistol, Mrs. Bryant, where was this boy then? Or I should say where was this man?

A When I turned around, he was getting in a car down the road.

Q Did you rush back in the store then?

A Yes.

Q Had you ever seen that man before?

A No.

Q Have you ever seen him since?

A No.

Q Tell us what size man he was. Describe about how tall he was.

A He was about five feet, six inches tall.

Q And that is about four inches taller than you are, is that right?

A Yes.

Q And how much would you say that he weighed?

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A Around one hundred and fifty pounds.

Q Did he walk with any defect?

A No.

Q Did he have any speech defect?

A No.

Q Did you have any trouble understanding him?

A No.

Q What sort of impression did this occurrence make on you?

A I was just scared to death.

Q Mrs. Bryant, do you generally know the negroes in that community around Money?

A Yes.

Q What kind of store is it that you run there?

A It is just a general store.

Q Are most of your customers negroes or white people?

A Most of them are negroes.

Q And of course, you come in contact with most of the negroes around there in that way?

A Yes.

Q And you know most of them around there, do you?

A Yes.

Q And was this man one of those?

A No.

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Q Did he talk with a southern or northern brogue?

A The northern brogue.

Q Did you have any difficulty understanding him?

A No.

Q Did you have any white men anywhere around there to protect you that night?

A No.

Q Was your husband out of town?

A Yes.

Q Do you know where he was?

A He was in Brownsville.

Q What was his purpose in being away from home then?

A He had carried a load of shrimp there.

Q Where had he started out with that load of shrimp?

A From New Orleans.

Q When did you expect him home?

A I didn't know.

Q What was the reason for Mrs. Milam and the children being there with you?

A So that I wouldn't be alone.

MR. CARLTON: Now, we submit, Your Honor, that the testimony here is competent on the basis of the testimony which was introduced by the State to show that there was some talk in Money, and to remove from the minds of the

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jury the impression that nothing but talk had occurred there.

THE COURT: The Court has already ruled, and it is the opinion of the Court that this evidence is not admissible.

(The jury returned to the courtroom, and the proceedings continued with the jury present.)

MR. CARLTON: We have no further questions, Your Honor.

MR. CHATHAM: No questions.

(WITNESS EXCUSED.)

MRS. J. W. MILAM,

A witness introduced for and on behalf of the defendants, being first duly sworn, upon her oath testified as follows:

DIRECT EXAMINATION

BY MR. CARLTON:

Q What is your name, please, ma'am?

A Mrs. J. W. Milam.

Q How old are you, Mrs. Milam?

A Twenty seven.