

Thereupon the State of Ohio, further to maintain the issues on its part to be maintained, called as a witness DORIS BENDER, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Parrino:

Q Would you state your name, please?

A Mrs. Doris Bender.

Q Where do you live?

A 294 Ruth Street, Bay Village.

Q Are you married?

A Yes.

Q Now, where is Ruth Street located in Bay Village, will you tell us that, please, in a general way?

A Why, it is near Stop 31, and we are just one block east of Bassett Road. It is a little dead-end just south off Lake Road.

Q Now, Mrs. Bender, I want to call your attention to the night of July the 3rd and the early morning of July the 4th of this year. Where were you on that night?

A We were in Aurora, Ohio, visiting some friends of ours.

Q And you and your husband?

A Yes, and my little girl, 6-year-old girl we have.

- Q And what time did you leave your friends' home that evening, approximately?
- A Well, it must have been a little after one o'clock.
- Q Would you tell us generally where Aurora, Ohio, is located?
- A Well, generally it is about, oh, I'd say 40 or more miles, sort of east-southeast of Bay.
- Q Now, you say you left shortly after one a.m., is that correct?
- A Yes.
- Q And you were in an automobile, I presume?
- A Yes, we were in our car.
- Q And who was driving, please?
- A My husband.
- Q And in what part of the car were you seated?
- 4 A In the front seat.
- Q And in what part of the car was the child seated?
- A She was asleep in the back seat.
- Q Now, as you got over beyond the West Side of Cleveland, on your way home, what route were you taking?
- A We were on Lake Road. That is 2 and 6, I think, isn't it?
- Q Beg your pardon?
- A Route 2, is it? 6. It is West Lake Road.
- THE COURT: Route 2 and 6, West Lake Road.
- Q And are you acquainted with the home of Dr. Sam Sheppard?

- A Yes, I am.
- Q And were you acquainted with that home before July the 3rd of 1954?
- A I knew where it was.
- Q You had seen it?
- A Yes. We passed it many times.
- Q Now, did you drive past that home on that morning?
- A The morning of July 4th.
- Q And approximately what time was it when you drove past that home, please?
- A Well, I should judge it was around 2:15, because my husband noted that --

MR. GARMONE: Just a moment,
please. I will object to what she has to say
about her husband.

THE COURT: Well, I don't know
what she is going to say. Let's find out.

Were you going to speak of some conversation
you had with your husband?

THE WITNESS: No. I wouldn't
know any particular time that we got there,
except that -- yes, it would be a conversation.
I see what you mean.

THE COURT: You mustn't recite
any conversation.

THE WITNESS: Well, I should judge
it was after 2:15, because we arrived home around
2:30.

NS
MAG
k 5

Q And as you drove past the Sheppard home, did you observe anything about that home?

A I just noticed that there were lights on.

Q And in what part of the home did you notice lights?

A I don't know the interior of the home. I noticed that there was a light on downstairs on the east side of the house and there was a light on upstairs.

Q In other words, you observed a light on the first floor, did you?

A Yes, sir.

Q And you observed another light on the second floor?

A Yes.

Q And this light that you observed on the first floor, I think you stated that that was on the easterly side of the home, is that correct?

A Yes.

Q Now, where did you observe this light on the second floor?

A It seemed to be about the center of the house, upstairs in the center.

Q I see. Now, as you observed these lights in that home, without telling us the conversation, did you have some conversation with your husband?

A Yes.

Q And was that conversation you had with your husband relative to what you had seen?

A Yes.

MR. GARMONE:

Objection.

THE COURT:

She says "yes."

All right.

MR. GARMONE:

Exception.

Q And then you say you got home about 2:30, is that correct?

A Yes.

Q Where is your home located with reference to the Sheppard home?

A I should judge about a quarter of a mile west.

Q And is it located on the north side, north of Lake Road or south of Lake Road?

A South.

MR. PARRINO:

You may inquire.

CROSS-EXAMINATION OF DORIS BENDER

By Mr. Garmone:

Q Mrs. Bender, how long have you been a resident of Bay Village?

A Four years.

Q How long?

A Four years.

Q And you know many people in that community?

A Yes, I do.

Q Do you know who lives next door to the home that is

occupied by Sam Sheppard?

A You mean to the west or the east?

Q To the west.

A I think the Schueles live there.

Q And do you know who lives next door to the Schueles west?

A I think the Bruscinos, I imagine.

Q Well, are you guessing or are you sure now?

A I am pretty sure.

Q You are pretty sure. Now, you left Aurora about what time?

A It was after one.

Q Well, do you have any idea specifically?

A Well, not too specifically. It was probably 1:15, 1:10, something like that.

Q Could it have been 1:30?

A I don't think so, not that late.

Q Well, would you say for certain that it couldn't have been 1:30?

A Well, we started to leave at 1:00, and goodbyes and getting the children organized and all, it probably was 1:15.

Q 1:15. Now, what route did you take when you left Aurora?

A Well, my husband was driving. I didn't pay too much attention. We go different ways. We see these friends quite often.

Q Well -- go ahead.

MR. PARRINO:

Just a moment.

Q Go ahead. I am letting her continue.

A I am rather vague about it when my husband is driving, just how exactly we do go, but we cut through the Lake Shore Drive, that's north.

Q I see. Now, you have been over to Aurora many times prior to this particular evening, haven't you?

A Yes.

Q And you have taken different routes on other occasions, haven't you?

A That's right.

Q Now, the incident that you made reference to that you have described for this jury was about what time?

A Beg pardon?

Q What time did you see the lights?

A Well, it must have been after 2:15. That's as close as I can come.

Q Well, are you sure?

A I'm sure it was after 2:15.

Q Have you ever been in the Sheppard home?

A No.

Q So you wouldn't know where the center of the home is located, would you?

A The center?

Q Yes. As far as the inside --

A Oh, no, no, sir.

Q Now, when did you first hear anything about the incident that took place at the Sheppard home?

A We heard that noon, July 4th.

Q July 4th. Did you go to anyone and report the incident that you have just testified to this jury?

A Yes, I did.

Q And isn't it a matter of fact that you went to a person sometime around the 10th or the 11th of July?

A No, I don't recall specifically.

Q Well, to refresh your memory, was it a member of the reporter's staff of one of the Cleveland newspapers that first came to your home and talked to you?

A Yes, a reporter did come to my home.

Q And wasn't that conversation between yourself and this reporter on the 10th or 11th of July?

A I don't remember exactly when the reporter came, but I do remember that he did come.

Q He did come to your home. And, Mrs. Bender, up until that time you had made mention to no one about having seen lights in the Sheppard home, isn't that a true statement of fact?

A No, that's not.

Q Well, who did you first tell about this?

A I called Mr. and Mrs. Ahern when I heard about it.

Q Mr. and Mrs. Ahern?

A Yes.

Q And when did you call them?

A July 4th.

Q July the 4th?

A Yes, sir.

Q And then did you call anyone else?

A No, I didn't.

Q And they were the only two people that you had told about this incident until you were contacted by a newspaper reporter, is that right?

A That's right.

Q You never went to the officials or any authorities until what date, the 12th, 13th or 14th of July, to tell them the story that you have related to this jury?

MR. DANACEAU: Object to that.

He is putting in certain dates which may not be the correct date.

MR. GARMONE: Well, she can deny that they are not the correct dates.

THE COURT: Wait a minute.

Let her tell when she went to some official, if she did.

Q Well, let's go back over the story. After you had talked to the Aherns about the light incident, you made no further mention about the lights until you were contacted by a

reporter from the Cleveland Press, is that right?

A Mr. Rossbach came out to see me.

Q When?

A Wednesday, the 7th.

Q The 7th. But until he had come out to see you, you had made no contact with any official, is that right?

A Not directly, no.

Q Not directly. Now, I would like to show you some exhibits here. I will hand you what has been marked for identification the Defense Exhibit II. Do you recognize anyone in that picture?

THE COURT:

Answer that yes

or no.

A Just a cursory look, I can't see anyone right this moment.

Q Are you in that picture?

A I don't see myself.

Q Would this be you back here under the basket?

A No, it definitely is not me.

Q Did you attend the inquest on any of the hearings?

A I did not.

Q Now, Mrs. Bender, you say that you live about a quarter of a mile from where the Sheppard home is located?

A (Witness nods head.)

THE COURT:

You have to

answer because the reporter cannot see you

nod your head.

A Yes. I'm sorry.

Q And you live south of the Lake Road, is that right?

A Yes.

Q Did I understand you correctly on direct examination that you arrived home about 2:30?

A Yes.

Q And it took you 15 minutes to cover the last quarter of a mile?

A No. I said I thought approximately it was 2:15 -- after 2:15 that we passed.

Q Didn't you say that you arrived home about 2:30 in your direct examination?

A Well, when you don't know the exact hour -- I can only judge it was between 2:15 and 2:30.

Q I will ask you if in response to one of Mr. Parrino's questions you didn't say that you arrived at your home at about 2:30?

A Yes.

Q Now, your home is located a quarter of a mile from the Sheppard home, is that right?

A Yes.

Q South of Lake Road?

A Yes.

Q And you want this jury to believe that it took you 15 minutes to travel the last quarter of a mile?

MR. MAHON: I object to that,
if your Honor please. She has not testified
to that.

THE COURT: The objection is
sustained.

Q Were there any automobiles on the highway?

A Yes, there were some passing us.

Q Didn't you also tell, Mrs. Bender, this reporter that interviewed you about having seen a man in the vicinity of the Bruscano home?

A I don't recall.

Q You don't recall, but you wouldn't say that you didn't make that statement to him, would you?

A Why, I didn't make that statement, no.

Q Why did you say you don't recall?

A I misunderstood you. I thought you asked if the reporter had told me. No, I didn't see anyone.

Q Well, then, when you said to me that you didn't recall, you weren't answering the question that I put to you?

A I misunderstood you.

MR. MAHON: I object to that.
She explained it.

THE COURT: She misunderstood

you.

MR. GARMONE:
was pretty plain.

I think the question

MR. MAHON:

Well, now, I object.

THE COURT:

She misunderstood
your question, that's clear.

Q How fast were you travelling, would you say, when you
were approaching the Sheppard home?

A I have no way of knowing that.

Q Well, were you travelling about 40 mile an hour?

A Could be, yes.

Q 50 mile an hour?

A 40, 50, 45, I wasn't watching the speedometer.

Q It could have been 60?

A No, I doubt that it was 60.

Q Well, if you were travelling 45 or 50 mile an hour, how
much time, in your estimation, would it take you to pass
the home or the lot on the -- the home of Dr. Sam Sheppard?

A I wouldn't know that.

Q You wouldn't know. Now, how well do you know the Aherns?

A We are friends.

Q Well, social friends?

A Yes.

Q Visit back and forth with them?

A Occasionally.

Q And they visit at your home, do they?

A They do.

Q And you called them on the 4th of July?

A Yes.

Q Now, as you were driving along, without relating the conversation, there was talk off and on in the car during the route that you had taken from Aurora to your home that night, wasn't there?

A Oh, yes.

Q And you were sitting on what side of that automobile?

A To the right of the driver.

Q To the right of the driver. So during the conversations that you would be having with the driver, who was Mr. Bender, you would have to be looking in his direction, would you not?

A Yes.

Q And that would prohibit you from making any view to what may have been to your extreme right, isn't that a correct statement, Mrs. Bender?

A It might be.

Q And isn't it a fact that at about the time that you were passing the Sheppard home, or just a few feet from the time that you were passing the Sheppard home, that you started to engage your husband in conversation, without relating the conversation?

A Are you making a statement or do you want --

Q I am asking you a question.

A Well, I have no way of remembering what we were doing.

Q Well, is it possible that you could have been engaging your husband in conversation at the time that you were passing the Sheppard home at about 45 or 50 mile an hour?

A If I were looking out of the window, I don't imagine I was carrying on a conversation.

Q Well, if you weren't looking out of the window, do you imagine that you could have been carrying on a conversation?

MR. MAHON: I object to the argument here.

MR. PARRINO: Objection.

MR. GARMONE: It's a question.

MR. PARRINO: I know it's a question, but it's a terrible one.

MR. MAHON: It's argumentative.

THE COURT: Objection sustained.

MR. GARMONE: I am sorry, Tom, but I don't --

MR. PARRINO: You don't have to tell me it's a question.

MR. GARMONE: I'm sorry, but I don't have the ability to phrase my questions as well as you do.

MR. PARRINO: I know, Fred.

MR. GARMONE: And I have never classified any of your questions as being terrible, so if you have any objections, would you make them to the Court and have him rule on them?

MR. PARRINO: That is exactly what I am doing, but please don't argue with the witness when you ask a question of that kind, sir.

MR. GARMONE: That is a courtesy that I have shown you throughout this trial, and I expect the same back.

MR. PARRINO: I ask you to show the witness the same courtesy, sir.

THE COURT: Gentlemen, let's have a question. This witness is waiting here, sir.

Q Now, have you talked to the Aherns since?

A Yes.

Q How often?

A Several times.

Q Well, how many times?

A I haven't kept any count of the number of times. I imagine three or four times.

Q Well, how many times, would you say, from the incident that you have described to this jury until this morning?

A Three or four times, maybe.

Q And where did that conversation take place?

A Three or four different conversations?

Q Yes, without relating what the conversations consisted of.

A Oh, I've talked on the telephone, and I have seen Mrs. Ahern at her -- not at her home but in my home, and at another party's home.

Q Did you talk to anyone else?

A Oh, I've talked to a lot of people.

tke 6 Q
mg

Was there ever a statement taken by you from anyone?

A No, sir.

Q And the things that you have testified to here this morning was never reduced to writing by any member of any agency that investigated this case, is that right?

MR. MAHON: Now, I object to that. How would she know?

MR. GARMONE: Well, she would know if a statement was taken from her.

MR. MAHON: You didn't ask her that.

THE COURT: She wouldn't know.

The objection will be sustained.

Q Was there ever a statement taken by you, and were you ever asked to sign a statement?

A No, sir.

Q At no time?

A No.

Q Now, when this reporter came to your home, the only light that you had made mention about was a light that you had seen on the second floor; isn't that a true statement?

A No.

Q You mentioned also the light that you saw in the east side of the house downstairs?

A Yes, sir.

Q Now, do you know who lives next door to the Bruscinos?

A I think the Mayor.

Q And next door to Mr. Houk's home?

A Is the grave yard.

Q Now, I will ask you again, Mrs. Bender, whether you didn't state to the Press reporter that came to your home about four or five days after the 4th of July that you had seen in the vicinity of the Bruscano home a person walking on the north side of Lake Road?

A No, I did not.

MR. GARMONE: That is all.

REDIRECT EXAMINATION OF DORIS BENDER

By Mr. Parrino:

Q Now, Mrs. Bender, I think you told the jury a moment ago that Officer Rossbach of the Sheriff's office was out to see you on July the 7th, is that correct?

A Yes, sir.

Q And where did he come?

A To my home.

Q Did you speak to him on that occasion?

A Yes, I did.

Q Did you relate to him substantially what you have related to this jury here today?

A Yes, sir.

MR. PARRINO:

That is all.

RECROSS EXAMINATION OF DORIS BENDER

By Mr. Garmone:

Q Was the statement that you related to him ever reduced to writing, if you know?

MR. MAHON:

We object to that.

Q If you know?

THE COURT:

Objection will be

sustained.

Q Did you ever attach your signature to any statement that you have related here this morning?

MR. MAHON:

I object. She has

testified she has not.

THE COURT:

Just a minute. What

is that?

Q Have you ever attached your signature to any written instrument that corresponds --

THE COURT:

Mr. Garmone, she has

already stated that she did not, so let's quit

on that, please. The Court is getting impatient

with the repetition all the time, and we just

must discontinue that kind of -- we will never

get through with this case if we don't.

MR. GARMONE: Well, now, of course,
the Court's impatience is --

THE COURT: Are you through, Mr.
Parrino?

MR. PARRINO: Yes.

MR. GARMONE: I am through, too.

THE COURT: She will be excused.
(Witness excused.)

MR. GARMONE: Does the Court have
any desire to ask me whether I am through with
the witness?

THE COURT: If you can't proceed
with your witness and without these repetitions,
the Court will excuse the witness.

MR. GARMONE: Well, if the Court
feels that the defense is repetitious, as you
have stated on several occasions, both in my
examination and Mr. Corrigan's examination,
I wish you would display the same attitude as
far as repetition is concerned regarding the
questions that have been put by the State.

THE COURT: Mr. Garmone, this
Court wants to be absolutely fair and wants to
give the defendant an absolutely fair trial, but
when we have the same questions asked time and

time again, that is not conducive to a fair trial, and it does tend to waste the time of the jurors and all parties involved.

MR. GARMONE: Well, I take exceptions to the Court's ruling --

THE COURT: Oh, certainly, you may do that.

MR. GARMONE: And I would like for the Court to display the same type --

THE COURT: The Court will.

MR. GARMONE: -- of attitude toward the State --

THE COURT: The Court will.

MR. GARMONE: -- as he does in his remarks that he directs to the defense side of the table.

THE COURT: Let me say to you now that the Court thinks and believes, thoroughly believes, that he has been that impartial from the beginning, and he will be to the end. The Court has no interest in this case other than to be sure that we do have a fair trial and that we proceed with the trial. That is all that the Court wants.

MR. GARMONE: Will your Honor
display that by his attitude to the defense?

MR. PARRINO: I object to these
remarks, if the Court please.

THE COURT: The Court is impartial.
The Court has no attitude to anyone. The Court
is absolutely impartial.

The jury will disregard entirely this
discussion between counsel and the Court. They
have no bearing upon this case other than in the
mechanics of the trial, of course.

Now, gentlemen, let's proceed.

- - -