

Thursday Afternoon Session, 1:30 p.m., November 3, 1966

THE COURT: Counselor Corrigan
or Spellacy?

MR. CORRIGAN: The State will call
its next witness, Mrs. Bender.

THE COURT: Mrs. Bender, please.

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THEREUPON, the State of Ohio, further
to maintain the issues on its part to be main-
tained, called as a witness DORIS BENDER, who,
having been first duly sworn, was examined and
testified as follows:

DIRECT EXAMINATION OF DORIS BENDER

By Mr. Corrigan:

- Q Will you state your name and address, please?
- A Mrs. Doris Bender, 294 Ruth Street, Bay Village.
- Q How long have you lived at that address, Mrs. Bender?
- A Sixteen years.
- Q With whom do you live at that address?
- A My husband and our daughter.
- Q How old is your daughter?
- A She is eighteen.
- Q What type of employment is your husband engaged in?

A He is retired at the present moment.

Q And prior to his retirement what type of work did he do?

A Salesman.

Q A salesman with what company?

A Judson Roberts, New York.

Q Mrs. Bender, did you live at your present address in July, 1954?

A Yes.

Q Where is that street in relation to Lake Road in Bay Village?

A Well, it is near -- it runs south from Lake Road. It is near Bassett Road.

Q It runs off of Lake Road?

A Yes.

Q How far off of Lake Road is your home located?

A I don't know how many feet, but it is -- we are the first house on Ruth Street, which is this little street. I suppose it might be half a block.

Q Now, in 1954, July of 1954, did you know the whereabouts of the residence of Sam and Marilyn Sheppard?

A Yes.

Q Where was that residence located?

A Well, it is on Lake Road, and it is near Huntington Park. I don't know how much detail you want me to go into.

Q On what side of the road, the north or the south side?

A On the north, on the north side.

Q On the north side. Are you familiar with a cemetery on Lake Road?

A Yes.

Q Where, if you know, will you tell the Court and jury is that home in relation to that cemetery?

A Well, it is east of the cemetery.

Q And how many homes east of the cemetery?

A It is about three, I think. I can't think now.

Q I see. Calling your attention to the evening of July 3rd, 1954, do you recall where you were that evening?

A Yes, we were visiting friends in Aurora, Ohio.

Q When you say we --

A My husband, daughter, and myself.

Q Where did the friends live in Aurora?

A They live on Chillicothe Road, right in Aurora.

Q What time in the evening did you go to visit the friends on Aurora Road?

A We went for dinner. I don't remember exactly now when we did leave, but we were over there before dinner time in the afternoon.

Q Then you returned home subsequently?

A Yes, we did.

Q What time did you leave their residence?

A It was after one o'clock at night.

Q When you say after one o'clock, is that on the 3rd or the morning of the 4th?

A Well, it would be the morning of the 4th.

Q Did you return directly home?

A Yes.

Q Do you recall the route that you took from Aurora coming back to Bay Village?

A We took the Turnpike to -- we got on at Streetsboro, and then we turned off at Strongsville that night, that particular night, and came up I guess it is 42 to Lake Road.

Q What time did you arrive home that evening, or that morning?

A Well, as I remember, it was around 2:30.

Q Beg pardon?

A As I remember, it was around 2:30 in the morning.

Q Around 2:30?

A Yes.

Q How long does it take or how long did it take, as best you can recall, to traverse the area from Aurora to your home?

A Well, it usually takes an hour, on the Turnpike.

Q Now, when you traveled on Lake Road, in what direction did you travel?

A We are traveling west.

Q West on Lake Road?

A Yes.

Q Did you have occasion to go by the Sheppard home on Lake Road?

A Yes.

Q At about what time of the morning would this be?

A Well, I don't know exactly, but I can only surmise from the distance when we got home, it isn't very far, it would have to have been after 2:15.

Q How far is your home beyond the Sheppard home in distance, if you know, approximately?

A Well, approximately quarter of a mile, I guess.

Q Now, as you passed the Sheppard home did you make any observations of this home?

A Yes, I did.

Q Will you tell the Court and jury what your observation was?

A I saw that the lights were on.

Q Where specifically did you see lights on?

A Well, as I remember there was a light downstairs, and one upstairs, and the garage light was on.

Q Are you familiar with a family in Bay Village by the name of Ahern's?

A Yes, I am.

Q Without relating -- do you have occasion to call the Aherns on the morning of July 4th?

A Yes, I did.

Q Approximately what time did you call the Aherns?

A I think it was around noon time, as I remember.

Q Without telling us -- with whome did you speak at the Ahern residence?

A I think I talked to Mrs. Ahern.

Q Without telling what conversation you had with Mrs. Ahern, will you tell the Court and jury the subject matter of that conversation?

A Well, we were very shocked to hear about the tragedy.

MR. BAILEY: I object and ask that be stricken as non-responsive.

THE COURT: The answer is stricken, but she may respond to the question. Will you put the question again, counselor, please.

MR. CORRIGAN: Yes.

Q What was the subject matter, not what you felt, not what you said, not what they said, but what was the subject matter of your conversation with Mrs. Ahern?

A Just talked to her about what had happened, and she talked to me about it. I don't know how specific I should be.

Q All right. Now, do you know, Mrs. Bender, whether or not as a result of that conversation with Mrs. Ahern you were contacted by a deputy from the Sheriff's office?

A Yes, I was.

MR. CORRIGAN: No further questions of this witness.

THE COURT: Counselor Sherman or Bailey?

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CROSS EXAMINATION OF DORIS BENDER

MR. BAILEY: May I proceed, your Honor?

THE COURT: Yes, please proceed, counselor.

By Mr. Bailey:

Q Mrs. Bender, did I understand you to say you noticed three different lights that were burning?

A Well, I don't know as I counted lights, but those are the areas that I mentioned.

Q There was a light on the second floor?

A Yes.

Q About in the center of the front of the home?

A As I remember.

Q And there was a light on the first floor?

A Yes.

Q And that was on the easterly side of the home, is that right?

A Yes.

Q And you said there was a light on in the garage?

A Yes.

Q Do you recall giving testimony in the trial that took place involving the same defendant in 1954?

A Yes.

Q Do you recall whether or not you mentioned at that time any lights being on in the garage?

A I don't recall, no.

Q Are you sure that you did see a light on in the garage?

A Yes, I am pretty sure, after twelve years.

Q What did you see in the garage that was illuminated?

A Well, just the garage, just in passing, no more than just the fact that lights were on.

Q Was there a door on the garage?

A Oh yes.

Q Was it closed?

A As I recall it was.

Q Is your memory of this incident as clear today as it was in 1954?

A Oh no.

Q I wonder if you would look over the record that I am

going to hand you, and specifically referring to page 4174, and subsequent, and just read it to yourself and see if that refreshes your recollection; before answering allow Mr. Corrigan to read it, if you will.

Have you now read through this page?

A Yes.

Q Do you recall when you testified last time that you said you saw lights on, and you were asked in what part of the home did you notice lights?

A Yes.

Q And you mentioned one light upstairs and one downstairs?

A 1 Yes.

Q And that was all?

A Yes.

MR. BAILEY: Thank you. That is all, your Honor.

THE COURT: Anything further?

REDIRECT EXAMINATION OF DORIS BENDER

By Mr. Corrigan:

Q Mrs. Bender, will you tell the Court and jury what your memory is now as to the number of lights that you observed when you passed the Sheppard home on the morning of the 4th of July, 1954?

A As I remember now, after twelve years?

Q Yes.

A The fact that there were lights in the house, and specifically speaking of the house is what they asked me. That is why I mentioned just the lights in the house. But no one said any other lights in the garage.

Q What is the fact with regard to your memory as regard to a light in the garage?

A I just remember that the light was on, because that was in line with my conversation with my husband.

MR. CORRIGAN: Thank you. No further questions.

RECROSS EXAMINATION OF DORIS BENDER

By Mr. Bailey:

Q Mrs. Bender, when you testified before do you recall being asked as you drove past the Sheppard home did you observe anything about that home, and you answered, "I just noticed that there were lights."

And you were asked, "In what part of the home did you notice lights?"

And you responded, "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."

And you were asked, "In other words, you observed

the light on the first floor, did you?"

And you answered, "Yes, sir."

"And another light on the second floor?"

"Yes."

Now, when the question was put to you relative to the lights you had seen in the home, did you consider the garage not to be part of the home when you answered?

A I must have.

Q Do you think you might have seen the light on on the garage on some other occasion as you drove by the Sheppard home?

A Well, after twelve years, as I say, if I had been asked before, I might, but I don't think so.

MR. SPELLACY: Pardon me?

A I said, I might have, but I don't really think so.

Q I understood you to say that your memory in 1954 was a little clearer as to this whole incident?

A Oh yes.

Q Can you recall whether or not you gave a written statement to anyone immediately after you reported this observation?

A I don't recall definitely. How immediate do you mean?

Q Oh, within a day or two?

A Yes, I did give a statement then.

Q You were interviewed by some police official?

A Yes.

Q And you gave him a statement describing what you had seen?

A Yes.

Q Do you remember how soon after the murder that you gave the statement?

A Well, it was several days, really, maybe three or four days after.

Q Could you tell us who you gave it to?

A If I can remember, I think it was a Mr. Rossbach.

Q Mr. Rossbach, deputy sheriff?

A I think that is the name.

Q Is that the only statement you gave?

A To my knowledge, yes.

MR. BAILEY: Thank you very much.

THE COURT: Anything further,
counselor Corrigan?

MR. CORRIGAN: Yes.

FURTHER REDIRECT EXAMINATION OF DORIS BENDER

By Mr. Corrigan:

Q You had indicated I believe on recross examination that you may have seen a light on in the garage on another occasion, is that correct?

A No, I didn't mean to say that, if I did. I have seen

lights on on other occasions, or I had, but I don't know now, after twelve years, whether I can say definitely that I saw. I just remember that I did see a light on in the garage.

Q And that was on what date?

A Well, we are talking about the 4th, after 2:15 when we went by.

Q Of 1954, is that correct?

A Yes.

MR. CORRIGAN: Thank you. No further questions.

MR. BAILEY: Nothing further.

MR. CORRIGAN: Officer Drenkhan, please.

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