

Thereupon ELVA I. McGILL, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROSPECTIVE JUROR ELVA I. MC GILL:

BY THE COURT:

Q Do me a real favor, if you will, and talk right into Charlie McCarthy.

A Okay.

Q Is your name Elva I. McGill? ✓

A Yes, it is.

Q And you live at 4171 Columbia Road in North Olmsted?

A Yes, I do.

Q And you used to live at 3469 Silsby Road, University Heights?

A Yes.

Q How long is it since you moved to North Olmsted?

A We moved the 29th of July, this year.

Q And is it Mrs.?

A Mrs.

Q And what is your husband's name, Mrs. McGill?

A Richard F.

Q And what is his occupation or business?

A He is a Chief Accountant.

Q Who is he employed by?

A National Lead Company.

Q Are you employed at all?

A I am not at the present.

Q What do you mean by that? You have been employed?

A I left my employment on the east side when we moved, and at present I am looking for work.

Q Just what was the nature of your employment?

A Typist and general office work.

Q And do you have a family other than your husband?

A Yes. I have two sons.

Q How old are they?

A 17 and 20.

Q And they both live with you?

A Yes. One is in college and one is going to high school. One is a senior in North Olmsted High School.

Q I take it that you were here on Monday morning and heard these good people introduced here?

A Yes, I was.

Q Do you know any of them?

A No, I don't.

Q Do you know the County Prosecuting Attorney of this county, Mr. Cullitan, or any member of his staff?

A No, I don't.

Q Or the sheriff or any member of his staff?

A No, I don't.

Q Or Dr. Gerber, the coroner, or any member of his staff?

A No, sir.

Q When I refer to "family," I would like you to include your husband's and your own and let me refer to it as one family, if I may. Are there any members of your family who are members of any Police Department or any law-enforcing agency anywhere?

A Yes, there is.

Q Will you tell us about that?

A Fred McGill is a detective, I believe, in East Cleveland. I have only met him once. I think he is a second or third cousin, something like that.

Q He is related to your husband?

A That's right.

Q But you don't know him very well if you say you have only met him once?

A No. His father, my husband's father and this Fred McGill's father were cousins, and they used to visit, the parents, you know, back home. One time my mother-in-law was here and we contacted him and asked him to come to the house to see her rather than to see me.

Q How long has that been?

A I think two years.

Q Would the fact that Mr. McGill is a detective in the city of East Cleveland have any bearing at all upon your judgment?

2 A No.

Q You understand, Mrs. McGill, that there will be people here to testify, some of them holding public office, some of them have titles, doctor, and so forth, but that is the function of the jury, to weigh the testimony of all people on the same basis. In other words, no person is sacred before the law above the sacredness of other persons, and no matter what his station in life or title is, it is the function of a jury to weigh his testimony and believe what they believe credible and disbelieve the rest without regard to who he is. You understand that?

A Yes, sir.

Q Have any members of your family been visited by violence at the hands of anyone, if you know?

A No.

Q Attacked, robbed or anything at all?

A No.

Q Have you ever served as a juror before?

A No.

Q Ever served as a witness in a court?

A No.

Q This is your first court experience?

A It is.

Q May I ask you, Mrs. McGill, if you object to capital punishment in a proper case?

A No.

MR. CORRIGAN:

I object.

THE COURT:

Overruled. Exception.

Q You see those nice people there. Do you know any of them other than having seen them? I am speaking of the people in the jury box.

A Oh, no.

Q Do you know any of them outside of the fact that you have seen them in connection with this case here this week?

A That is all.

Q You have heard of this Sheppard case, I take it?

A Yes.

Q And you have read about it?

A Yes.

Q And you have discussed it with other people and other people with you?

A Yes.

Q And have you ever expressed an opinion as to the guilt or innocence of Dr. Sheppard?

A I wouldn't say I expressed an opinion. I have discussed it.

Q I don't care what your opinion is, if you have one, but are you sure that you have never expressed an opinion?

A Well, I might have. In discussion maybe someone would have taken it as such. I wouldn't want to say that --

Q All right. Have you now an opinion?

A Yes, I do.

Q Is that opinion such that could not be changed, if necessary, by credible evidence given under the rules of law that the Court will prescribe here?

A No. I think I have an open mind. I don't feel that I know all the facts in the case.

Q And do you honestly believe that you could sit here and listen to the evidence as it comes from that witness stand where you are now sitting, and to the instructions of the Court as to the law, and then close out all the rest of the world and all the opinions, if any, that you have at any time entertained, and be guided entirely by that evidence and instructions of the Court as to the law?

A I believe I could.

Q Well, could you?

A Yes.

Q Since the 4th day of July of this year, have you received any communication, by mail, telephone or other means, that could be at all related to this matter?

A Yes. I received a letter and I received two telephone calls.

Q Well, we will take the letter first. When did you receive the letter?

A I think it was about a week ago.

Q All right.

A It was sent to my other address.

Q Have you it with you?

A No.

Q What did you do with it?

A I think it is in the wastebasket. I believe it is burned up.

Q I take it that it came to you in the mail?

A Yes, sir.

Q I will show you the Court's Exhibit A-12 and A-13, and I will ask you to glance at those and tell us, if you can, whether those are duplicates of what you saw?

A Yes, they are.

Q Of what you received?

A Yes.

Q Do you know who sent you those?

A No, I don't. It was sent to my other address. It was not sent to me in North Olmsted. It was forwarded by the Post Office.

Q But in any event, you have no idea who sent it?

A No.

Q Have you entertained any idea at all that any member of the Sheppard family or friends sent it?

A No.

Q All right. We can say to you that we know who sent it, and that no member of the Sheppard family or their friends had anything whatever to do with it.

As a result of receiving this in the mail, or what you

received in the mail, would your judgment be affected at all in this case?

A No, sir.

Q Now, we come now to the telephone calls. When were those?

A One was the day that the names were printed in the papers. I take the Plain Dealer, and two friends --

Q You saw your name in the paper?

A No, I didn't see my name in the paper. Friends called.

Q And what was the nature of that conversation?

A Well, just that they seemed to think that it was the thing to do to call, and most of them congratulated me. I don't know why.

Q Perhaps they wanted to sympathize with you. That could be it.

Were any opinions expressed?

A No.

Q About the guilt or innocence of Dr. Sheppard?

A No.

Q That's the one telephone conversation you have mentioned. That was at the time the list was published?

A That's right.

Q Will you tell us about the other one?

A The other one was similar.

Q And about the same time?

A Yes. The next day, I believe.

Q Was there anything about those communications that would have any bearing at all upon your judgment?

A No, sir.

THE COURT:

Mr. Mahon.

EXAMINATION OF PROSPECTIVE JUROR ELVA I. MC GILL:

BY MR. DANACEAU:

Q Mrs. McGill --

THE COURT:

That gentleman is Mr.

Danaceau. He is an assistant county prosecuting attorney. He would like to put a few questions to you.

BY MR. DANACEAU:

Q Mrs. McGill, I believe you just told the Court that you read about this matter in the newspapers?

A Yes.

Q And have you heard something about it on the radio?

A I would say television. I very seldom listen to the radio.

Q I believe you also told the Court that you could sit here as a juror and decide this case solely on the basis of the evidence that will be received from witnesses in this courtroom and on nothing else?

A Yes.

Q There has been an indictment returned in this case by the

Grand Jury charging Dr. Sam Sheppard with murder in the first degree. A Grand Jury sits in each of our counties, and they hear just one side of the case. When they return an indictment, that is just a charge and it is not evidence. Do you understand that?

A Yes.

Q And in the United States and in Ohio as well as in all other states when people are charged with a crime, the place where they are tried as to whether they are guilty or not is in a court and nowhere else. You understand that, do you not?

A Yes.

Q And anything that they may have heard, read about, either in the past, the last few days or at any time, other than what is received from witnesses in open court, must be totally and completely disregarded. Can you do that?

A Yes.

Q Every person is entitled to a fair trial before a fair Judge and before a jury composed of fellow citizens who are fair and impartial and will decide the case on nothing but the evidence presented in open court. Are you prepared to do that?

A Yes.

Q Now, the question that obviously presents itself, from what you have said, is: Can you erase from your mind the things

that you have read, and discussions that have been had?

You have read many stories and you have seen many pictures, haven't you?

A I have seen quite a few. I don't think I have read everything, if that's what you want to know. ✓

Q Well, I don't think any of us have read everything. But you have read a good deal, as many others have?

A Yes. ✓

Q Did you, for example, read in one of the newspapers a front page story that was entitled, I believe, "Dr. Sam Writes Own Story"?

A No.

Q With his signature on the front page?

A No.

Q Did you read statements by either Dr. Sam Sheppard or his brothers or members of his family?

A Occasionally some would come in the Plain Dealer. That's what I read mostly. I am limited to one paper.

Q You get the Plain Dealer at home?

A That's right.

Q And that is the only paper that you have --

A We are taking the News at the present time, just recently.

Q And I take it you don't get the Press?

A No.

Q Did you in the Plain Dealer have occasion to read a signed

statement issued by Mr. Corrigan and Mr. Garmone?

A I really don't remember.

Q You don't remember that?

A No.

Q And you have read statements by public officers and by very many people, haven't you?

A At times as the trial -- as it went along. I didn't read as much as I did in the beginning.

Q Now, the State of Ohio, whom we represent on this side of the table, as well as the attorneys on the other side, are anxious to get 12 jurors who can completely disregard, entirely and absolutely disregard anything and everything, whether it is from newspapers or talk in the courtroom here by others than the witnesses, even talk by the lawyers, whether we can disregard all of that and decide this case upon nothing but the evidence presented here, and you are prepared to do that?

A Yes.

Q Now, in a trial in open court where the guilt or innocence of a person charged with a crime is determined, witnesses come and they are put under oath, swear to tell the truth, the whole truth and nothing but the truth, and they are questioned. Now, the jury is the sole judge of what the facts are in a case. They hear these witnesses, they are entitled to believe any witness, everything that he testifies to or in part or to

wholly disbelieve any witness. That is their job, their function.

The function of the Court is to preside over the proceedings and to also instruct the jury as to what the law is that is applicable to the case.

And you will take the law, as all of us must take the law, from Judge Blythin. But the jury is the sole judge as to what the facts are. You understand that, do you not?

A Yes.

Q And these many witnesses, they will come from all walks of life. Some may be professional people, like doctors, lawyers, police officers, public officers, and there may be many private citizens, lay people. And you are prepared to apply the same rules that the Court will give you to all of these witnesses and treat them equally under those rules, are you not?

A Yes.

Q Now, some of those rules which the Court will instruct you on are these: You may determine whether a witness is telling the truth, what credibility you shall attach to his testimony by the frankness and forthrightness with which he testifies; you may consider what interest he has on one side or the other that might affect his testimony; you may consider what opportunity the witness had to know about the facts concerning

which he is testifying; you may consider the reasonableness or the probability of his story or the lack of reasonableness or the lack of probability of his story; you may apply to his testimony all of your own experiences in life to test whether or not he is telling the truth.

If the Court would instruct you as to these rules which you are to apply to the testimony of witnesses, will you apply these principles?

A Yes.

Q Now, some of the evidence that will be presented will be direct evidence and some of it will be circumstantial evidence, and the Court will instruct you that you may consider both direct evidence and circumstantial evidence. And will you follow the instructions of the Court in that regard?

A Yes.

Q Now, you are not to make up your mind at any time about this case while it is going on. You will wait until the whole case is in, the Court has charged you and you go into your jury room. Will you follow that procedure?

A Yes.

Q Now, to get back to this indictment which is, as I have explained to you, tried to explain to you, merely a charge, it is not evidence, that indictment does not raise any presumption of guilt on the part of the defendant. You understand

that, do you not?

A The charge?

Q The charge doesn't --

A Yes.

Q You are to attach nothing to the indictment to indicate that because the indictment was returned that that means that the defendant is guilty?

A I understand, yes.

Q You don't believe in that, do you?

A No.

Q And you also understand, do you not, that it is the burden of the State to proceed and to prove the guilt of the defendant by evidence that will convince the jury that he is guilty, and that they must be convinced beyond a reasonable doubt?

A Yes.

Q And you will, of course, follow that?

A Yes.

Q And that if the State fails to prove that he is guilty by evidence beyond a reasonable doubt, you will, of course, vote to acquit him?

A That's right, yes.

Q And if, on the other hand, you are convinced beyond a reasonable doubt by the evidence presented that the defendant is guilty, you can accordingly vote guilty?

A Yes.

Q Now, if a defendant charged with murder in the first degree is found guilty by the jury, and there is no recommendation of mercy, the Court will be obliged, the Judge will be obliged to sentence that person to death. Could you, if the jury finds that he is guilty in that manner, to that degree of proof, join in such a verdict?

A Yes.

Q Let me just ask you this final question: Do you know of anything that would present you from being a fair and impartial juror, fair both to the defendant and also fair to the State of Ohio, and perform your duties of a conscientious juror under the law?

A No.

MR. DANACEAU: Pass for cause.

THE COURT: Mrs. McGill, that gentleman is Mr. Garmone of counsel for the defense. He has some questions, too, that he would like to ask you.

EXAMINATION OF PROSPECTIVE JUROR ELVA I. MC GILL:

BY MR. GARMONE:

Q Mrs. McGill, one of the last questions that was asked of you by Mr. Danaceau had to do with the element of capital punishment, the taking of a life. Now, I may somewhat in my

examination with you become -- I may seem a little personal, but it is only for the purpose of trying to determine whether under the law and to the satisfaction of the Court, and primarily, to the responsibility that I have in the protection of that young man's life, I may ask some questions that may seem of a personal nature, although I don't mean them to be that way. And that wouldn't cause you to have any feeling toward me should they strike you as being somewhat more personal than you feel I have a right to ask? You wouldn't have any feeling toward me in that regard, would you?

A No.

Q And if you did develop some feeling, you wouldn't, if you are chosen as a juror, take it into the jury box and hold it against Sam Sheppard?

A No.

Q If you hold it against anyone, hold it against me.

Now, by the way, North Olmsted, that is out on the west side of Cleveland, is that right?

A Yes.

Q And that is a little south of Bay Village?

A Yes.

Q About how far south, would you say?

A I believe it's four miles.

Q The name of the Mayor of North Olmsted slips my mind right now.

Can you give me his name?

A I'm sorry, I'm so new over there that I couldn't give you any of the officials' names over there.

Q You don't know his name?

A No, I don't.

Q Do you know whether he is also a Doctor of Medicine or not?

A No, I don't.

Q Well, should you discover, after you would be chosen as a juror, that he along with being Mayor of North Olmsted is a Doctor of Medicine, would that give you reason to believe that a doctor who would come in here who is associated with the medical profession, would you give his testimony more consideration than you would an osteopathic doctor?

A No.

Q Now, you stated that you had read a good deal about this case in its early stages?

A Yes.

Q And then you sort of tapered off reading?

A That's right.

Q And during those early stages, I believe you said in response to one of Judge Blythin's questions that you had arrived at an opinion?

A Yes.

Q And you continued that opinion, although you have not continued to read in detail all of the other articles that were

carried by the respective papers, is that right?

A Yes.

Q Now, would you be sincere enough to tell me who, if anyone, you had expressed the opinion that you had arrived at, without telling me what your opinion was, of course?

A I think it was with the girls I worked with.

Q And was that at the job where you are now employed?

A I am not employed. It is the job I left.

Q The job you left. And where was that, please?

A Koehler Rubber & Supply.

Q And what is the address of that firm?

A It's at the corner of 40th and Carnegie.

Q About how many girls are employed there?

A Six.

Q And as you expressed your opinion to them, did they, in turn, express an opinion to you?

36 A Yes. That's how it came about.

Q And without telling me what your opinion was or what their opinions were, did their opinion, in the majority, correspond with the opinion that you had arrived at?

A I would say it was about half and half.

Q Half and half. And you left that place of employment?

A That is right.

Q And then were you employed thereafter anywhere?

A No, I haven't been.

Q In any part-time capacity?

A No.

Q Now, you read in the newspaper of an inquest that was conducted out in Normandy School in Bay Village, did you read that?

A Yes.

Q Did you attend that inquest?

A No, sir.

Q You did not?

A I was working.

Q You were working then. Were there any people who had attended the inquest, did any of those people that may have attended the inquest talk to you about it at all?

A No.

Q None whatsoever?

A No.

Q Now, a portion of the articles that were carried in the newspaper regarding the inquest, did you read in those articles where Mr. Corrigan, who was present, had made an attempt to read something into the record and that he was thrown out?

A I don't remember.

Q Thrown out of the room --

A I don't remember of it.

Q -- on the instructions of Dr. Gerber?

A I don't remember of it.

Q You don't recall that. Now, in some of the articles that you read, did they in some way have to do with the description that there had been a wall thrown around Dr. Sam Sheppard by his family and the lawyers who at that time represented him?

A I took it to infer that.

Q You drew that inference from the articles?

A That's right.

Q Now, as a result of having read that, that particular article that related to Dr. Sam Sheppard, and had made mention of other members of his family and the lawyers who were then representing him, was that one of the factors that helped bring about the opinion that you had expressed at the office at 40th and Carnegie?

A No, sir.

Q That was not one of the factors?

A No, sir.

Q Well, would that factor cause you now to have any preconceived ideas about this matter?

A You mean at the present time?

Q Yes.

A No.

Q Did it at that time create any preconceived ideas in your mind about the matter?

A No.

Q Did it develop any feeling of prejudice toward Sam Sheppard or the lawyers that represented him or members of his family?

A No.

Q Did it create any ill-will or any bias as a result of having read those articles and the inference that you gathered from them?

A You mean towards the Sheppard family?

Q Yes.

A No.

Q Or towards Sam Sheppard himself?

A No.

Q You made the statement about sometime during the years of your employment you were in general office work?

A That's right.

Q And who were you employed by?

A I worked for the F. W. Woolworth Company.

Q F. W. Woolworth Company?

A That's right.

Q And what was the type work that you did for them?

A I worked on sales reports.

Q At their downtown office?

A Yes.

Q And it had nothing to do with any work that would throw you

in contact with lawyers?

A No, sir.

Q Or any work that would bring you in contact, directly or indirectly, with members of the medical profession?

A No.

Q And how long were you at that type work?

A Approximately two years.

Q Are you in any way related to former Judge Neal McGill?

A I am ~~not~~ sure. He might be a brother of this Fred McGill, but I don't know.

Q You mean the Fred McGill that is a police officer?

A That is a detective. I am not sure. I have never met him.

Q Have you had any contact with Judge Neal McGill recently?

A No.

Q Now, this police officer you speak of, do you see him very often?

A I saw him once about two years ago. I think it was two years ago last summer I saw him. It might be three.

Q I think you did say to the Court that that wouldn't permit you to give greater weight to the testimony of a police officer because of his relationship to you than you would a layman?

A No.

Q You would treat them both in the same manner?

A That is right.

Q Now, these people that had expressed opinions to you, was the last group of people the people who had worked with you at 40th and Carnegie, or have you had opinions expressed to you after you left that place of employment?

A I know very few people on the west side. I haven't had an opportunity to discuss things since I have moved over there.

Q Not since you have left your place of employment?

A That's right.

Q Now, you said that you came into the courtroom today with an opinion? ✓

A That is right. ✓

Q And that opinion that you came into the courtroom with, was that the same opinion that you had after having read these articles that you spoke of earlier?

A That is right. ✓

Q There has been nothing said or done between the moment that you came in to offer yourself as a prospective juror by the way of this examination that would cause you to change that opinion, has there?

A No, sir.

Q And you still have that opinion?

A I still have the opinion.

MR. GARMONE:
cause at this time.

I challenge the juror for

MR. DANACEAU: If the Court please,
that is no ground for challenging for cause at
all.

THE COURT: The juror has said
that what opinion she has formed at any time she
can set aside by evidence under the instructions
of the Court.

Did I understand you to say that?

PROSP. JUROR MC GILL: That is right.

MR. GARMONE: We will except to the
Court's ruling.

Q Now, if you were tentatively accepted as a juror in this
matter and you were to take your seat next to Mr. Liederbach
as the 12th juror -- I want you to be sincere with me in
answering this question -- would you take the opinion that
you came into the courtroom with to seat No. 12 in the jury
box?

A Would I what? Repeat that, please.

Q I will repeat it. Should you be tentatively accepted as
Juror No. 12 in the case of the State of Ohio versus Sam
Sheppard, and his Honor instructs you to take Seat No. 12
next to Mr. Liederbach, would you carry from the witness
chair that you now occupy into that chair there the same
opinion that you came into the courtroom with this after-
noon?

A I would until I heard further testimony.

Q You would until you heard further testimony?

A That is right; that is right.

MR. GARMONE: I renew my challenge.

THE COURT: It will be overruled.

MR. GARMONE: Exception.

Q Have I a right to assume, Mrs. McGill, from your answers, that your opinion is quite strong?

A It is at the present moment, yes.

Q It is at the present moment.

MR. GARMONE: I again renew my challenge for cause.

MR. DANACEAU: Under the circumstances, I think we are inclined to agree to the challenge.

THE COURT: The Court will not sustain it on that ground, Mr. Garmone.

MR. GARMONE: Mr. Danaceau, I don't think he heard you.

MR. DANACEAU: If the Court please, I consulted counsel here, and we think that under the circumstances we must join with counsel in having this witness excused, if she has a strong opinion and is going to carry it into the witness chair after she has testified on direct examination that she could set it aside. I assumed that she could set it

aside completely.

MR. CORRIGAN: Isn't that one of the challenges for cause, your Honor?

MR. DANACEAU: Unless I misunderstood the questioning here. I assumed upon direct examination that the witness said she could set it aside completely, remove it entirely from her mind.

THE COURT: That is what the lady has said.

MR. DANACEAU: If that is what she means, well and good; but if she means that she is going to take that opinion into the witness chair, that is another matter. ✓

THE COURT: Mrs. McGill, do I understand you that you have now stated that you do entertain an opinion?

PROSP. JUROR MC GILL: That is correct.

THE COURT: That you have come into this courtroom today with that opinion in your mind? ✓

PROSP. JUROR MC GILL: That is correct.

THE COURT: And that as matters stand at the moment, you cannot change your opinion?

PROSP. JUROR MC GILL: Not until I hear more

testimony.

THE COURT: All right. Do I understand that if you hear testimony in this case from this witness stand, and after you have heard all of the testimony in this case, if it convinces you beyond a reasonable doubt that your present opinion is not correct, could you completely overlook that opinion and forget it and be guided by what you hear in testimony?

PROSP. JUROR MC GILL: That is right.

MR. CORRIGAN: I object to the question.

THE COURT: Overruled.

MR. DANACEAU: May we have a short recess at this time?

MR. GARMONE: Yes, I would like a recess, too.

(Thereupon a discussion was had between Court and counsel off the record, after which the following proceedings were had on the record:)

THE COURT: Counsel for the State are willing that the request of counsel for the defense be granted. So you will be excused. Thank you very much.

Ladies and gentlemen, we will now have a few minutes' recess. Do not discuss this case in any

way, shape or manner, not even among yourselves.

We will have a few minutes' recess.

(Recess taken.)