

THE BAILIFF: Please take the
witness box, Mr. Tenerovich.

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THEREUPON, THOMAS A. TENEROVICH, a member
of the prospective jury panel, having been previ-
ously sworn, was examined and testified on voir
dire, as follows:

THE COURT: Good afternoon,
Mr. Tenerovich.

MR. TENEROVICH: Good afternoon.

THE COURT: Is that the correct
pronunciation?

MR. TENEROVICH: Tenerovich, just
the way it is spelled.

THE COURT: Thank you, sir.
Your first name is Thomas?

MR. TENEROVICH: Thomas, right.

THE COURT: Now, sir, the lawyers
are going to put questions to you, and you will
answer these questions accurately and forthrightly,
and keep your voice up as you did for me, sir, so
that each person in this room can hear you, and
remember when making your answers to these questions,
sir, that you are under oath; will you do that,
sir?

MR. TENEROVICH: Yes, I will.

THE COURT: All right. Counselor
Spellacy or Corrigan?

MR. SPELLACY: If it please the
Court.

VOIR DIRE EXAMINATION OF THOMAS A. TENEROVICH

By Mr. Spellacy:

Q Mr. Tenerovich, where do you live, sir?

A 10406 Prince Avenue.

Q Prince Avenue?

A In the city.

Q Where in the city is Prince Avenue?

A Between 116th and 93rd.

Q That is on the east side?

A Right.

Q How long have you lived at that address?

A Oh, about fourteen years now.

Q Prior to living there, where did you live?

A On Clinton Avenue, off 71st Street.

Q That is also on the east side?

A Yes.

Q Are you married, sir?

A Yes.

Q Do you have a family?

A Two daughters.

Q May we have their names and ages, please?

A Diane, she is twenty-two years old; and Barbara, is nineteen.

Q Are they living at home with you?

A One of them is home with me, and the other one is married.

Q What is her married name?

A Proboski.

Q Would you spell that, please?

A Diane Proboski, P-r-o-s-k-i.

Q Where does she live?

A She lives in Garfield, but I don't know the address.

Q What is her husband's name, his first name?

A Kenneth.

Q What does he do?

A He is an accountant.

Q Who is he with?

A Ohio Electric.

Q Your daughter is at home with you, is she employed?

A No, she is in her last year of high school.

Q Where does she go to high school?

A Our Lady of Lourdes.

Q Our Lady of Lourdes?

A Yes.

Q She is in her senior year there?

A Yes.

Q Now, sir, I failed to ask you where you are employed.

A At Alcoa, 2210 Harvard Avenue.

Q How long have you been employed there?

A Thirty-one years.

Q What do you do there, sir?

A I am a test-lab machinist.

Q A test-lab --

A Test-lab machinist.

Q Just what is that?

A Well, it is a special machine that works in a testing laboratory.

Q How long have you done that type of work?

A Thirty years, I have done that.

Q Now, is your wife employed outside the home?

A Yes, she is.

Q And where is she employed?

A She works for a small dairy company on Meech Avenue.

I can't even tell you the name of it. She has been employed a very short time.

Q On what street?

A Meech Avenue, that is up off of 93rd, just a block away from our home.

Q And how long has she been employed there?

A About a month now.

Q Prior to that, did she work outside the home?

A Yes, she worked, oh, three or four years ago, she worked out.

Q What type of work did she do then?

A Inspection work.

Q Who did she work for?

A For a Commentator Company. I just can't think of the Commentator Company, also in the neighborhood.

Q Mr. Tenerovich, have you ever had prior jury experience, or have you sat on a jury?

A Well, I have been called but I never have sat on a jury.

Q When was it that you were called, sir?

A Oh, about three years ago.

Q Was that here in the Criminal Court Building?

A No, it was downtown at Lakeside.

Q At Lakeside. Have you ever been a witness in any kind of a case?

A No, I have not.

Q Any members of your family ever been witnesses in any kind of a case?

A Not that I know of.

Q Do you understand that this is the case of the State of Ohio versus Sam Sheppard, do you understand that, sir?

A Yes.

Q Now, have you read anything about this case at any time?

A Oh, yes, I have to admit I read a lot about it.

Q If you can answer my questions yes or no, will you please do that, all right?

Did you read -- did you follow this closely in the papers?

A Fairly closely.

Q And do you recall when that was?

A Well, I have to admit that at the time that this happened --

Q Excuse me, do you recall when it was?

A It was the Fourth of July of 1954, I think.

Q Sir, as a result of having read something in the paper -- I take it it was the Cleveland newspapers, is that correct?

A Yes.

Q --have you formed an opinion with regard to this matter? Answer that yes or no.

A No, no.

Q Have you ever expressed an opinion with regard to this matter?

A Yes, I guess I have.

Q Has anyone else expressed an opinion to you? Just yes or no.

A Yes, yes, on a lot of occasions.

Q As a result of other people expressing an opinion to you, do you have an opinion in this case that would prevent you from being fair to either side, yes or no?

A No, I don't, no.

Q In other words, if called upon to sit as a juror in this case, you would decide the case only on the evidence presented here in this courtroom?

A Right.

Q Judge Talty will tell you that you must not consider anything else outside of what is testified to here in this courtroom; will you follow that instruction?

A Yes, sir.

Q You see, as a juror, it is your job to weigh the evidence, you are to search for the truth, you are the sole and exclusive trier of the facts, and it will be your job to evaluate the witnesses who testify from the chair that you are sitting in now, size them up, and you can accept all of what they say, part of what they say, or you can just disregard their testimony if you want, that is your job as a juror, do you feel you can do that?

A Yes.

Q Objectively and fairly?

A Yes.

Q Equally important you must as a juror take the law that Judge Talty gives to you at the conclusion of the case.

In this day of radio and television, we all have some ideas as to what the law is or what it might be.

Could you set outside your mind any ideas you might have and take the law that Judge Talty gives to you?

A Yes.

Q Now, I anticipate Judge Talty will tell you that in a criminal case the defendant is presumed to be innocent, and the law places upon the State of Ohio the duty to prove him guilty beyond a reasonable doubt, and will you follow the instruction that Judge Talty gives to you as to the definition of reasonable doubt?

A Yes.

Q Do you have any friends or close friends or associates or members of the family who are members of the Cleveland Police Department, or engaged in law enforcement work?

A How close a friend?

Q Well --

A I have a cousin, one cousin that is on the Detective Bureau.

Q Of what?

A The Cleveland Police.

Q Do you see him often, sir?

A Not very often. Maybe once every six months or so.

Q Do you have occasion to discuss police work with him?

A Not very much, not very much.

Q Sir, if Judge Talty will instruct you that in weighing the testimony of a police officer, that you must not give him any greater weight or any lesser weight solely because he is a police officer, you must weigh his testimony like you would any other witness, do you feel that you could follow that instruction even though you have a cousin who is a member of the Cleveland Police Department?

A Oh, I think so.

Q You wouldn't tend to give a policeman, if a Cleveland Policeman testified here, you wouldn't tend to give him any greater weight or any less weight solely because he is a Cleveland police officer, would you?

A No.

Q By the same token, it is anticipated that members of the County Coroner's Office will testify here; would you give them any greater or any less weight solely because they are public officials working for the County Coroner's Office?

A No.

Q You would weigh their testimony just as you would any other witness, is that correct?

A Right.

Q Now, it is anticipated, also, that Judge Talty will tell you that in a criminal case there are various types of evidence, what we refer to as direct evidence and what we refer to as circumstantial evidence.

If Judge Talty tells you that circumstantial evidence properly proven is just as good as direct evidence, could you follow that instruction?

A Yes.

Q Do you know where Bay View Hospital is, sir?

A Yes, I do. I have been out there on several occasions. Mr. -- Doctor Sheppard's dad and his brother have been the family doctor --

Q Sir, my question is do you know where Bay View Hospital is?

A Yes.

Q The next question is, sir, do you know anybody connected with the County Prosecutor's Office?

A No, I don't.

Q Do you know the defendant here?

A Well, I have met him on a number of occasions at -- one time I had a --

Q Sir, my question is, do you know him?

A No, not personally.

Q Have you met him?

A Yes.

Q Do you know members of his family, yes or no?

A I knew his dad.

Q Now, do you know Mr. Sherman?

A No, I don't.

Q Do you know Mr. Bailey?

A No, I don't.

Q Would the fact that you have met the defendant and knew his father, would that tend to influence you somewhat in this case?

A No, no.

Q When was it, sir, that you --

A Oh, back in 1952, '51.

Q 1951 or '52?

A I am guessing at that now. It was right in around there.

Q You indicated you knew his father, is that correct?

A Oh, he operated on --

Q Sir, you indicated you knew his father, is that right?

A Yes.

Q Is that right?

A Yes.

Q How long had you known him?

A I met him on a couple of occasions.

Q Did you know him professionally?

A No.

Q Was it some member of your family that employed some member of the Sheppard family?

A Yes.

Q What member of your family?

A My mother.

Q Pardon me?

A My mother.

Q And was this how you knew Doctor Sheppard, Senior?

A Yes.

Q When was this that you knew Doctor Sheppard, Senior?

A Right about 1951, I would guess, right in around there.

Q When you read about this in the paper, did you follow it closely?

A Pretty close.

Q Have you read anything other than newspapers about this, yes or no?

A No.

Q Have you read any books or magazines in connection with this case?

A Not that I remember.

Q Now, you indicated before, that you had on occasions expressed an opinion, is that correct?

A Yes.

Q Now, is this an opinion that you gathered from reading the newspapers, yes or no?

A Yes.

Q Do you feel that this opinion that you gathered from reading the newspapers, would prevent you from being able to be fair to either this defendant or the people of Ohio,

in this case, if selected as a juror, yes or no?

A How was that question again?

Q Maybe I better rephrase it. I don't understand it myself.

You indicated that you had expressed an opinion based on what you had read in the newspapers, is that correct?

A Yes.

Q Now, would the fact that you had expressed this opinion regarding this case, would that tend to prevent you from being fair to this defendant as well as to the people of Ohio?

A No, it would not.

Q You feel, then, sir, that you could sit fairly and objectively, setting aside any sympathy or any bias or any prejudice?

A I would think so.

Q His Honor Judge Talty will tell you that sympathy or bias or prejudice have no place in a lawsuit; will you follow that instruction of law?

A Yes.

Q Would the fact that you knew Doctor Sheppard, Senior influence you in any way as a member of this jury?

A No.

Q You would be fair to this defendant as well as to the people of Ohio, and decide the case on the evidence that is

presented here in this courtroom, disregarding all other factors, is that correct?

A Yes.

Q Other than the one contact that you have told us about with your mother and Doctor Sheppard, Senior, was there any other occasion that you met him?

A No, no, just in the hospital, on several occasions.

Q On several occasions, you met him?

A Yes, he operated on my mother two different times.

Q Now, this cousin that you have in the Detective Bureau, what is his name?

A Burt Wiglicky.

Q Burt Wiglicky?

A Right.

Q Do you know how long he has been with the Cleveland Police Department, the Detective Bureau?

A I would say fifteen years, maybe.

Q You don't know whether or not he participated in any fashion in this particular case?

A I don't think he did.

MR. SPELLACY:

Pass for cause.

THE COURT:

Counselor Sherman

or Bailey?

VOIR DIRE EXAMINATION OF THOMAS A. TENEROVICH

By Mr. Bailey:

Q Mr. Tenerovich, did your cousin on the Police Department ever talk to you about this case?

A No.

Q You never heard him mention Sam Sheppard?

A No.

Q Now, what papers were you receiving back in 1954, what papers were you receiving back in 1954?

A The Press, I read the Press about all the time.

Q Most of your information in those days came from the Cleveland Press?

A Right.

Q Is it fair to say that the opinion you originally held came from reading the Cleveland Press?

A Yes.

Q But you tell us today that you really don't have an opinion, is that right?

A That's right.

Q When did you lose it, do you recall?

A Well, when we were brought in --

MR. SPELLACY: I object.

Q Wait. It just calls for a time, what year, what date, if you know?

A How did I -- what was the question?

Q When did you cease to have an opinion, Mr. Tenerovich?

You originally had one you told us, but you don't have one today. What was the time that you no longer had one?

A Well, here the other day is when I went, when Judge Talty told us that everything that you remember previously to this time, you have to forget about, and now you are going to judge this case on what we hear now, not what we heard then. So I could say, maybe, yesterday, or the day before.

Q You mean the thing that caused you to abandon your opinion was the instruction of Judge Talty?

A Right, right.

Q But until that time, from 1954 until 1966, you did have an opinion?

A Right.

Q Would you say it was a strong opinion, a firm conviction?

A Well, I believe that the twelve people on the jury --

MR. SPELLACY: Objection.

THE COURT: Objection sustained.

Q You read in the paper that the original Sheppard jury voted to convict, is that right?

A Right.

Q Now, have you read anything further in the newspapers -- just yes or no -- about what happened to that conviction?

A No.

Q Did you read in the newspapers that Sam Sheppard was released at one point?

A Yes, sir.

Q As a result of some legal proceedings?

A Yes.

Q Did you read sometime this year, that the United States Supreme Court had set aside that conviction as unlawful?

A Yes.

Q Now, I take it you initially attached some significance or had some opinion based on what you heard about the first trial?

A Yes.

Q Now, if this Court instructs you, Mr. Tenerovich, that when a higher court rules that a trial is defective, as has been done in this case, that there was a defect, that whatever the jurors did in that case is meaningless, absolutely meaningless in the eyes of the law, can you accept that instruction and honestly say to yourself, "I don't attach any significance to what I know happened before"?

A I think so.

Q You think you can, all right. You know, of course, you have been told that the defendant in a criminal case, Doctor Sam Sheppard here, is presumed to be innocent?

A Yes.

Q Now, as you sit there now answering my questions and

looking at this defendant, and having in mind what you have heard about the case, and so forth, do you have any difficulty in presuming him to be innocent right at this moment?

A No, I don't think so.

Q Without describing what you might remember, can you tell me simply yes or no whether you remember some of the facts that appeared in the newspapers at the time of the original case, some of the things that were being said about the case, about Doctor Sheppard, about the murder, and so forth?

A Well, about the time --

MR. CORRIGAN: Objection.

Q Just do you remember some facts?

A Yes, I do.

Q Do you remember anything about the Doctor's private life beyond the fact that he practiced medicine, any facts, just yes or no, if you remember?

A Yes.

Q Do you remember anything about the investigation and the extent to which he participated in the investigation, or did not participate, yes or no?

A Yes.

Q Now, was the opinion that you originally held to some extent, based on those things which I have just described, those kinds of facts, did that contribute to the opinion you

arrived at?

A I wouldn't say so.

Q Prior to the time that a jury returned a verdict in the first trial, did you have an opinion based solely on what you had read?

A No.

Q You did not. Do you represent or can you say to us that the only basis for any opinion you have ever held in this case, was the fact that a jury voted to convict?

A Right, right.

Q And I take it you can be satisfied when you are instructed, as you will be, that the original conviction doesn't mean anything, is illegal, that it is wiped out of your mind and your consideration, is that true?

A Yes.

Q Mr. Tenerovich, if you are seated as a juror in this case, you will hear some evidence which will come principally from the lips of the witnesses on that same witness stand testifying before you under oath, and eventually after arguments by counsel, and instructions on the law by the Court, you will be asked to deliberate and decide whether or not the State of Ohio has proved that this defendant committed the crime charged.

And if something in the course of these ^{proceedings} recalls to mind some facts that you recall from 1954, that

have not come into evidence, that haven't been heard of at all in this trial, that Judge Talty has not permitted you to receive or the lawyers haven't offered, can you decide the defendant's guilt or innocence without reference whatsoever to anything else you may believe to be true, that did not come out in the evidence during the trial?

A I think so.

Q Well, are you reasonably certain that you can do that?

A I would say so.

Q Now, again, yes or no, Mr. Tenerovich, did you read when you followed this case initially something of the defendant's version, what he claims happened?

A Yes.

Q Now, the defendant doesn't have any burden at all in this case to prove anything or to explain anything or tell you anything.

If the State of Ohio furnishes evidence to show that Marilyn Sheppard was killed in her own home back in 1954, as you heard, and that Doctor Sam Sheppard, was in the home at the time this took place, and after such proof the defendant doesn't say a word, doesn't produce any evidence, doesn't offer anything at all for your consideration, and you are then told by the Court that you as a juror cannot draw any inference at all, that you can't place any significance, or hold against the defendant or count against him

in deciding this case, the fact that he did not offer evidence, will you be able to decide the case without reference in your own mind to the silence of the defense, if you are told?

A You mean with the Judge's instruction? I think I could.

Q If the Court tells you that the defendant has a right, an absolute right, not to testify when he is charged with a crime, and that he has no obligation to tell you anything he may know about this case, and the fact that he doesn't testify cannot be held against him in any respect, and that you must not assume that he is hiding something, or that he might be guilty and that is why he didn't want to testify, but you must decide the case solely on what is proven, can you follow that instruction if the Court gives it to you and apply it to your decision in this case?

A Yes, I would say so.

Q If the defendant does testify, and the Court tells you as a juror that the fact, the very fact that he is a defendant sitting in this chair, does not mean that anything has been proved against him, and that he is entitled to the same status as a witness sitting in that chair giving evidence, as any other witness, and that he starts even, would you be able to give the defendant as even a chance to be believed as you would any other witness in the case?

A I think so.

Q To approach his testimony then with as impartial a mind as if he were some one other than the defendant who knew something about the case?

A I would say so.

Q Now, perhaps, Mr. Tenerovich, you have some ideas from your experience, of what you have heard from friends, or perhaps your cousin, as to what the law is or what the law ought to be, or what would be a good rule, but the Court will tell you that in the trial of this lawsuit, as in every lawsuit, all of the rules, all of the rules to be applied come right from the bench from Judge Talty, and that any other rules you might think good or bad, better or more fair to one side or the other, must be disregarded by you.

If you are told that, can you follow the rules that Judge Talty gives you, whether you like them or not?

A I would say so.

Q Okay. Judge Talty will instruct you that before a citizen of the United States can be convicted of a crime, a jury must find from evidence that his guilt has been proved beyond a reasonable doubt, he will instruct you that the level of a reasonable doubt, just how much proof it takes to reach that level is something for him to explain, now, when he gives you this instruction, will you be able to follow it conscientiously, and find the defendant not guilty

if you have any reasonable doubt left in your mind when the case is over?

A Yes.

Q Have you ever met any of the Sheppard family, just yes or no?

A Yes.

Q Have you met Doctor Sam Sheppard?

A Yes.

Q Have you met Doctor Richard Sheppard?

A Yes.

Q Have you met Doctor Stephen Sheppard?

A Yes.

Q And Doctor Richard Sheppard, Senior, I believe you said you did?

A Yes.

Q How many times have you met all the brothers, in total?

A On a couple of occasions.

Q Did you meet them all at once?

A Yes, generally in the hospital.

Q Did any of the Sheppards ever treat a member of your family except Doctor Richard, Senior?

A My immediate family?

Q Your general family, people that you are close to?

A Yes, yes.

Q Which of the Sheppard brothers has treated your family?

A Richard.

Q Richard?

A Yes.

Q Did Doctor Sam Sheppard treat any of them that you know of?

A Not that I know of.

Q And how about Doctor Stephen Sheppard?

A I believe on a couple of occasions.

Q Now, did you -- just yes or no -- did you form some impression of the Sheppard family when you encountered them and met them and talked with them?

A No.

Q You did not form any impression?

A No.

Q So I take it, that whatever association you have had with the Sheppard family, you would be able to put out of your mind as far as deciding the guilt or innocence of the defendant Sam Sheppard?

A Yes.

Q Do you feel that you can be completely fair and impartial in judging this case?

A I would say so.

Q If Judge Talty tells you that as a juror you are the only judge of the facts, you and your fellow jurors, the only judge of the facts, anywhere in the case, and at any

level, that your responsibility is to make a final judgment of the facts, can you accept that instruction and that responsibility?

A Yes.

MR. BAILEY: Thank you, Mr. Tenerovich.

Pass the juror for cause.

THE COURT: Mr. Patrick and Mr. Reed, will you get the rest of the jury panel, please?

You ladies and gentlemen in the back of the room, if you choose to leave now, you may do so while the panel is on its way.

Mr. Tenerovich, would you be good enough to take the chair, sir, between Mr. Spinnelli and Mr. Popiel, so you will be accustomed to that chair in the morning when you return, sir.

(Thereupon the balance of the prospective jury panel was brought into the courtroom.)

THE COURT: Ladies and gentlemen of the prospective panel, we have reached that point in the afternoon where we normally try to adjourn. It is four o'clock, one minute before four o'clock.