

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

DIRECT EXAMINATION OF ROBERT SCHOTTKE

By Mr. Corrigan:

Q Will you state your name and address, please?

A Robert F. Schottke, 5441 Berkshire Drive, North Olmsted, Ohio.

Q And what is your occupation or profession, sir?

A Sergeant with the Cleveland Police Department.

Q And how long have you been a member of the Cleveland Police Department?

A Almost 24 years.

Q And were you a member in July of 1954?

A I was.

Q With what unit were you attached in July of 1954?

A I was with the Detective Bureau assigned to the Homicide Unit.

Q Will you tell the Court and jury what the duties and functions of the Homicide Unit of the Cleveland Police Department are?

A Their duties are to investigate homicides, suicides,

shootings, cuttings, violent deaths, and suspicious deaths, things of that nature.

Q Calling your attention to July 4th, 1954, did you have occasion, sir, to participate in the investigation of a matter relative to the Sheppard premises in Bay Village, Ohio?

A Yes, I did.

Q Will you tell the Court and jury what time you arrived at work that morning?

A Approximately 8:15 a.m.

Q And who if anyone assigned you to participate in the matter relating to the Sheppard premises?

A Captain Hauschild.

Q Pursuant to that assignment where did you go?

A We had conversed with Captain Hauschild that morning.

Q Pursuant to the assignment made to you by Captain Hauschild where did you go?

A We went to Bay Village, Ohio, Lake Road, 28924 Lake Road.

Q When you arrived there who did you see?

A As we were just about entering the door leading from Lake Road, Doctor Gerber was coming out of that door.

Q What time of the morning was that?

A Approximately 9:00 a.m.

Q Now, you say "we"; who was with you?

A Detective Patrick Gareau.

Q Did you have conversation with Doctor Gerber?

A Yes, we did.

Q Pursuant to that conversation what if anything did you do?

A Doctor Gerber, Detective Gareau, and myself entered the home and went through the living room and then went upstairs to the bedroom.

Q What door did you enter into the home?

A We entered from the door leading to Lake Road.

Q What was the first observation that you made upon entering that door?

A In the hallway there was an overturned physician's grip in the hallway.

Q Then you say you proceeded into the home?

A Yes, sir.

Q And then into the upstairs portion of the home?

A Yes, sir.

Q Will you tell the Court and jury by what route you went to the upstairs portion of the home?

A We went down this hallway, made a left turn into a rather large living room, west across the living room.

Q Now, in the living room at this time did you make any observations?

A Just glancing around, yes, sir, as we were walking.

Q And what were the observations that you made?

A Up against the north wall we were able to see a desk, and there were papers about the desk, and a chair on the floor.

Q Now, proceed with the route that you took to the upstairs?

A We went west then in the living room and made another left turn, sort of an "L", and walked down that way, and then made another left turn and proceeded up the stairs.

Q Where did you go when you went up the stairs?

A We went into a bedroom, directly --

Q Will you tell the Court and jury what observations you made, where was that bedroom with regard to the stairs, going up the stairs?

A It was almost directly in front of the stairway, in other words, if you would walk straight you would walk directly into the bedroom.

Q What observations did you make as you entered that bedroom?

A Prior to entering the bedroom we were able to see blood spots on the open door.

There were blood spots on the east wall, and on the closet door, and as you enter the room to the left we could see the body of a female lying on the bed.

Q Would you describe the position of that body?

A The body was about a third of the way down the bed. The head and the hair were covered with blood. The pajama top was pulled up over the body exposing the breasts.

The left hand and arm was lying across the body. The right arm was lying alongside of the body covered with a sheet.

The legs were bent over the edge of the bed. The top part of the bed had a cross bar on it, under which the legs were resting.

After the sheet was removed at a later time we were able to observe that the leg of the bottom part of the pajama was pulled off and was bunched at the right knee.

Q After making this observation in this room, what did you then next do?

A I then obtained a flashlight from the Bay Village Police Department, one of the members of the Bay Village Police Department.

I got down on my hands and knees and with the flashlight searched under both beds, under the night stand, and then in a stooped position I searched the remainder of the floor in the bedroom.

Q What was the flooring composition in that room?

A There was a carpet in there, plus a hard wood -- or, a wooden floor.

Q I see. Now, in the course of examining the floor with

the flashlight did you find anything of significance?

A No, I did not.

Q And how long a time did you spend examining the floor with the flashlight?

A Oh, possibly five to seven minutes, in that vicinity.

Q Were you down on your hands and knees doing this?

A Searching under the beds and the night stand, yes, I was on my hands and knees. The remainder of the floor I was in a stooped position.

Q Now, after completing that examination of the floor with the flashlight, then what did you do?

A I examined the remainder of the room, the windows in the room.

Q What did you find with regard to the windows?

A The one -- there was a double window facing north, and the shade was down and the window was locked.

The other window was raised approximately four inches with the shade down to the opening of the window. The screen was locked. There was no disturbing of the dust or anything like that on the window sill.

The east -- or, the west window was down and locked.

Q What was your purpose in making observation of the windows?

A Looking to see if there could be any signs of forcible entry into the room.

Q And what is the fact as to whether or not you found any signs of forcible entry?

A I found no signs of forcible entry.

Q Then what did you do, sir?

A At that time I went downstairs and through the living room, and made a more thorough examination --

Q Keep your voice up.

A I made a more thorough examination of the living room, and then from there I went into the den.

Q When you use the term "den" with reference to the hallway that you first entered the home, where is the den?

A It would be the first room to the right off the hallway as you enter the home.

Q What observations did you make and what did you do with respect to the den?

A I went into the den and observed there was a desk in there, a leather chair, and on the floor were desk drawers that had been pulled out, and there was a green metal box there, and there was also some tools which appeared to be sort of a lug wrench, some pins, and among the tools was a lady's yellow gold wrist watch.

Q Handing you, sir, what has been marked for purposes of identification as State's Exhibit 22, can you identify that, sir?

A Yes, it looks just like the watch I seen on the floor.

Q Now, did that complete your observations and inspection of the room which you refer to as the den?

A I then checked the windows and the door in the den. I found the windows locked, the door was locked, and it had a chain lock on it.

Q What was your purpose in checking the windows and the door of the den?

A To see if there were any signs of forcible entry.

Q And what is the fact as to whether or not you found any signs of forcible entry?

A I found no signs of forcible entry.

Q Then what did you do, sir?

A I then went outside and checked the outside of the home, and went down to the beach, looked around the beach at that time.

Q Then what did you do?

A Just about that time Doctor Gerber returned and I went upstairs to the bedroom with Doctor Gerber.

Q And what did you do in the bedroom with Doctor Gerber?

A At that time the undertakers had arrived, and the body was removed from the premises.

THE COURT: Counselor, please
fix the time, if you can. Can your witness fix
the time, Counselor?

MR. CORRIGAN: Yes.

Q Approximately what time was that?

A That was approximately ten o'clock.

Q Did you observe the removal of the body?

A Yes, I did.

Q Now, at the time the body was removed, do you know whether or not anything was found under the body?

A Yes, there was.

Q And by whom?

A I found it.

Q And what did you find?

A I found two small teeth chips under the body at the time the body was taken from the bed.

Q What if anything did you do with those two small teeth chips?

A I turned them over to Doctor Garber.

Q And then what did you do next, sir?

A Just about that time I went down to the beach, I believe, and I found Detective Gareau, and we went to the Bay View Hospital.

Q What time in the morning was this?

A Approximately 10:45.

Q And how far, if you know, is the Bay View Hospital from the Sheppard home?

A I would say possibly a mile and a half.

Q When you went to the Bay View Hospital, who if anyone

did you see at the Bay View Hospital?

A We originally seen the receptionist.

Q You had conversation with her?

A Yes, we did.

Q Then where did you go after having that conversation?

A We went down the corridor, the west corridor, the extreme end of the corridor, and went into the room where Doctor Sam Sheppard was.

Q Will you describe to the Court and jury your observations of Doctor Sam Sheppard at that time?

A At that time he was lying in the bed. He had sort of a gauze bandage around his neck. There was a swelling to the right cheek.

Q Did you have conversation with Doctor Sheppard?

A Yes, we did.

Q Will you relate to the Court and jury what that conversation was?

A We introduced ourselves as members of the Homicide Squad of the Cleveland Police Department. We told him that we had been requested by the Bay Village Police Department to assist them in the investigation of this matter; and we asked him to tell us everything that he possibly could in regard to this matter.

Q Will you continue, please?

A He said he would, and he stated that the evening

previously the Aherns were over that evening. During the course of the evening he became sleepy, and he went to lay down on a couch in the living room.

While he was sleeping he heard his wife scream and he ran upstairs. As he got into the room he thought he seen a form, and just about that time he heard somebody working over his wife.

About that time he was hit on the side of the head and knocked unconscious.

When he regained consciousness he heard a noise downstairs. He ran downstairs and he thought he seen a form going out the door towards the lake.

He then ran after this form and when he got down to the landing of the boat house, he doesn't remember whether he jumped over the railing or whether he ran down the steps. But anyway, he half tackled this form on the geach.

He was again knocked unconscious, and when he regained consciousness he went back into the home, and as he went into the home he went upstairs, attempted to administer to his wife, and felt that she was gone.

He then wandered around the home in a dazed condition trying to think. He finally thought of a telephone number. He called this number, and Mayor Houk then came over.

Q Now, sir, you mentioned that he said he had fallen asleep on the couch in the living room. Did you have occasion,

sir, to observe that couch in the living room?

A Yes, I did.

Q At approximately what time?

A That was when we originally entered the home shortly after nine o'clock.

Q And where was that couch located?

A That couch was located in the L-shape part of the living room which would be up against the east wall.

Q What observation did you make with regard to that couch?

A The couch had two pillows on it; one at the north end of the couch, one at the south end of the couch. And up at the south end of the couch there was a brown corduroy jacket neatly folded up against the pillow, with part of the jacket against the pillow and the bottom part of the jacket overhanging the edge of the couch.

Q Now, sir, you said that Doctor Sam told you that he was rendered unconscious down on the beach?

A Yes.

Q Did he say anything to you, sir, with regard to the lake or water?

A Yes, he did. He said at the time when he regained consciousness he was in the water face down and he was being wallowed back and forth by the waves.

Q Now, this occurred, this conversation that you relate,

occurred at the Bay View Hospital, is that correct?

A Yes, sir.

Q Then what did you do after this conversation with Sam Sheppard?

A We asked him questions after he related the conversation to us.

Q Will you tell the Court and jury what those questions and answers were, as best you can recall?

A We asked him how the screams sounded to him at the time when he woke up. He said they were loud screams.

We asked him how long the screams lasted. He stated all the while that he ran up the steps.

We asked him if he turned any lights on in the home. He stated no.

We asked him if there were any lights on in the home. He said he didn't know, he didn't recall.

We asked him if he could give us a description of the form he seen going out the door, whether the man was white or colored.

He said that he thought the man was white because the dog always barks at colored people.

He said he was a large man, about six foot three, dressed in dark clothing, was larger than he was, and was a dark complected white man.

We asked him as to the condition of the beach and light

and darkness when he woke up, and he claimed it seemed as though day was just breaking, that it was just a little bit lighter than dark, as though day was just breaking at that particular time.

We asked him about Doctor Hoversten. He said yes, that Doctor Hoversten was a guest at the home.

We asked him where Doctor Hoversten was at this particular time. He said that Doctor Hoversten had left the afternoon before to keep a golf engagement in Kent, Ohio.

We told him we had heard rumors to the effect that Doctor Hoversten may be infatuated with his wife. And he said yes, he had heard those rumors, but he didn't believe them because he knew his wife was true to him.

We asked him if there were any men callers during the day, at the home while he was away, and he said there could have been men callers calling at the home.

We asked him if he knew the names of these men callers, and he said at this particular time he could not recall any names.

We asked him if he was having any affairs with women. He stated no.

We asked him if his wife was having any affairs with men, and he stated no.

That is about the extent of the conversation as I can recall at this time.

Q I see. Then, sir, what did you do after having that conversation with Sam Sheppard at Bay View Hospital?

A We left the hospital and went to the Bay View Police Station.

Q With whom did you meet at the Bay View Police Station?

A We seen Chief Eaton, Sergeant Hubach, and Patrolman Drenkhan.

THE COURT: Fix the time, please,
counselor, if you can.

Q What time was this, please?

A Somewhere in the neighborhood of 11:15 to 11:30.

Q On July 4th?

A On July 4th, yes, sir.

Q Then where did you go, sir?

A We left the Bay Village Police Station and went back to the Sheppard residence on Lake Road.

Q Will you tell the Court and jury what you then did at the Sheppard residence on Lake Road?

A We made further search of the home, the garage, the surrounding area of the yard, and the beach.

Q Now, sir, did there come a time when you again met with Detective Patrick Gareau?

A Yes, there was.

Q What time was this?

A At approximately 1:30.

Q What if anything did Detective Patrick Gareau give you?

A At that time he gave me a green bag.

Q What did you do with the green bag?

A We went into the home and found Doctor Gerber and gave him the green bag.

Q Sir, the green bag that Detective Gareau showed you or gave you, did it have anything in it?

A Yes, it did.

MR. CORRIGAN: Mark these.

(State's Exhibits 23, 24, 25 and 26 were marked for identification by the reporter.)

Q What did it have in it?

A It had a man's gold wrist watch, a man's ring, and a key chain with keys on the key chain.

Q Will you describe the green bag for the Court and jury?

A It was a small green bag approximately three to four inches wide, and possibly six inches deep.

Q I hand you, sir, what has been marked for purposes of identification as State's Exhibit 26, and I ask you if you can identify that?

A It looks just like the green bag that was turned over to me.

Q I hand you, sir, what has been marked for purposes of

identification as State's Exhibit 23, and ask you if you can identify that?

A Yes, it looks exactly like the keys, the key chain, that was turned over.

Q I hand you, sir, what has been marked for purposes of identification as State's Exhibit 24 and ask you if you can identify that?

A Yes, it looks exactly like the watch that was turned over.

Q And I hand you what has been marked for purposes of identification as State's Exhibit Number 25, and ask you if you can identify that?

A Yes, it looks just like the ring that was turned over.

Q Now, sir, at the time that Detective Patrick Gareau showed you the green bag and its contents, tell the Court and jury what if any observations you made or what you did with the green bag and its contents?

A At the time when he turned the bag over to me the bag was opened up and we were able to observe these articles in the bag.

At that time the watch was face up, the second hand was not sweeping around the watch, it apparently was stopped at 4:15.

We then took the bag into the home, found Doctor Gerber,

and turned the bag over to Doctor Gerber.

Q You say you then turned the bag and its contents over to Doctor Gerber?

A Yes, sir.

Q What if anything did he do with the bag and its contents?

A At that time the contents of the bag were put on the table, and were examined.

Q What did you see relative to that examination or your examining the contents of that bag?

A At that time we were able to observe what appeared to be blood on the band and on the face of the wrist watch, and also what appeared to be moisture under the crystal of the wrist watch.

Q Then do you know thereafter who took possession of the bag and its contents?

A Yes, the bag was left in the possession of Doctor Gerber until a later time.

Q What time of the day was this, sir?

A Approximately 1:30.

Q What did you then next do?

A We then done a little more searching around the home and the premises, and then approximately 3:00 we left for Bay View Hospital.

Q Now, prior to leaving for Bay View Hospital at 3:00,

did you do anything else with regard to the other doors or windows in the lower portion of the Sheppard home?

A Yes, I examined the door leading to the lake. I examined the windows in the downstairs part of the house, and also examined the door leading to Lake Road.

Q And what was the purpose of that examination?

A To determine if there was any marks of forcible entry into the home.

Q What is the fact, sir, as to whether or not you found any evidence of forcible entry?

A I found no evidence of forcible entry.

Q Now, in the upstairs portion of the house you have already testified to an examination made of the room wherein you found the body of Marilyn Sheppard.

Did you have occasion, sir, to investigate with respect to the other rooms in the upper portion of that house?

A Yes, I did.

Q And what did you do in that connection?

A In the upper portion of the house there was another bedroom right next to the original bedroom of Marilyn Sheppard.

There was also a bathroom, another bedroom at the east end of the home, which had windows in it.

I examined all the windows in the upper portion of the home.

Q And what was the purpose of that examination?

A To see if there was any means of forcible entry.

Q And what is the fact, sir, as to whether or not you found any evidence of forcible entry?

A I found no evidence of forcible entry.

Q Now, sir, you say then at 3:00 that you went to the Bay View Hospital, is that correct?

A Yes, sir.

Q Where did you go in the Bay View Hospital?

A We went to the reception desk.

Q And you had conversation with someone at that point?

A Yes, we did.

Q And where did you go following that conversation?

A We were instructed to go to another room, that Doctor Sheppard had been moved to another room in the hospital.

Q Now, you used the term "we". With whom or to whom do you have reference?

A Chief Eaton of the Bay Village Police Department, Detective Gareau, and myself.

Q Did you see Doctor Sam Sheppard then in this other room?

A Yes, we did.

Q Who was present?

A There was Doctor Sam Sheppard, Chief Eaton, Detective Gareau, and myself.

Q And will you tell the Court and jury what observations you made at this time as to the appearance of Doctor Sam Sheppard?

A At that time the appearance was approximately the same as the morning. He had the slight swelling, swelling under the cheek, right cheek, and he still had that bandage around his neck.

Q Now, sir, did you have conversation with Sam Sheppard at that time?

A Yes, we did.

Q Will you relate to the Court and jury what that conversation was?

MR. BAILEY: I object, and ask that we approach the bench.

(Thereupon counsel and the Court conferred at the Court's bench out of the hearing of the jury, as follows:)

MR. BAILEY: We have this conversation almost verbatim in the transcript, on at least two occasions. In the course of the conversation, five accusations against the defendant were made, which were flat denials. He was denominated as a suspect by this witness.

I don't think the conversation is admissible.

THE COURT: Why do you feel it

is not admissible?

MR. BAILEY: Because he wasn't warned of his rights, and because these accusations coupled with denials are not admissible evidence. It would be prejudicial.

THE COURT: Objection overruled. The Court feels at this time that the principles enunciated in Miranda, Escobedo, or any other cases along this line of authority, are not applicable at this time.

There was no custodial restraint, although there may be interrogation at this point, but certainly no custodial restraint, so far in this record.

Please proceed.

(Thereupon proceedings were resumed within the hearing of the jury, as follows:)

By Mr. Corrigan:

Q Now, sir, will you tell the Court and jury whether or not you, any member of the Cleveland Police Department, any member of the Sheriff's office, any member of the Bay Village Police Department, had taken Sam Sheppard into custody?

A No, sir.

Q Do you know, sir, whether or not you or any members of these various departments that I have mentioned in any way

significantly detained the defendant in this cause, Sam Sheppard?

A No, sir.

Q Now, will you relate, sir, what that conversation was in Bay View Hospital at three o'clock in the afternoon, on July 4th, 1954?

A We told him that we would like to ask a few more questions in regards to this matter and he stated all right.

We asked him how he was dressed at the time when he fell asleep on the couch.

He stated at that time he had on a brown corduroy jacket, a T-shirt, trousers, and loafers.

We asked him if he had any jewelry on his person at the time he fell asleep. He stated that he had a wrist watch, a class ring, and a key chain with some keys on it.

We asked him if he knew where this jewelry was at this time. He stated no.

At that time I showed him the green bag, asked him if he could identify the green bag. He stated it looked just exactly like the green bag in which he put his motorboat tools.

I then showed him the wrist watch, and he said it looks just exactly like his wrist watch.

I then showed him the class ring, and he said that is his class ring.

I then showed him the keys and the key chain and he said that that was his keys and key chain.

I then told him that the green bag along with the contents was found on a hill in back of the home, and I asked him if he knew how the bag got there. He stated no.

I also, also, that there is some, there appears to be moisture under the crystal of the wrist watch.

I asked him if he knew how the moisture got under the crystal of the wrist watch.

He stated that a few days prior, in playing golf with Otto Graham, during the golf game they got caught in a sudden downpour and that is how the water got underneath the crystal of the wrist watch, and that his wife was going to take the wrist watch back to Halle's where she had purchased it, because it was not running right.

And I told him there appeared to be blood on the face of the crystal, on the band of the wrist watch, and I asked him if he knew how the blood got on there.

He stated that he remembered that when he woke up upstairs, after being unconscious, that he had felt his wife's pulse at the neck, and that is how the blood must have got on the wrist watch.

Q May I interrupt you at this point. In the earlier conversation that you had with him in the morning, did he tell you at that time that when he woke up he took his wife's pulse at her neck?

A No, he did not.

Q Now, will you continue with your resume of the conversation that you had at three o'clock in the afternoon?

A We then said, "If somebody had taken your wrist watch, and your class ring and key chain, why didn't they take your billfold?"

And he said because when he woke up upstairs, he noticed the billfold on the floor, and at that time he put the billfold in his pocket and ran downstairs.

We asked him in regards to his jacket when he took the jacket off during the night.

He said that he very vaguely remembers during the night he became warm, took the jacket off, and then fell back asleep.

We then told him, "Well, if you had taken the jacket off and put it on the floor, it would still be on the floor, and if you had put the jacket on the couch it wouldn't have been as neatly folded as it was because you would have slept on it."

We then said to him that in the morning conversation that he had recalled recovering consciousness on the beach and that he was being wallowed back and forth by the waves.

And we said, "You know as well as we do that an unconscious person can drown in as little as two inches of

water."

MR. BAILEY: I object to that, and
I move to strike as well.

THE COURT: The motion to strike
is overruled.

A He said, "Yes, that is true, but an unconscious person can help himself just like a football player can play half a game of football and not realize he is playing football."

We said, "In the morning conversation you had told us that you were assaulted two or three times at the most with fists on both occasions; yet you were wandering around the home in a dazed condition. How can you account for your dazed condition?"

He says, "Just like a football player can wander, or, play half a game of football in a dazed condition and not realize he is playing football."

At that time we asked him if he had any chipped teeth in his mouth. He said yes.

We told him that there were two teeth chips found underneath his wife's body at the time the body was moved.

We asked him if they were his chips from his teeth. He stated no.

We then told him that we received information that he was having an affair with a nurse from --

MR. BAILEY: Now I object to this.

THE COURT: May I see counselors,
please?

(Thereupon counsel and the Court conferred at
the Court's bench out of the hearing of the jury,
as follows:)

MR. BAILEY: I want a running
objection to this whole conversation, the manner
in which the evidence is put on. Apparently some
principle here may apply that any conversation in
the presence of the defendant rises to the stature
of evidence.

This is the second time that evidence
of extra-marital affairs has crept into this
second degree murder case, and I move for a mistrial
on this basis, that the evidence is wholly inadmissible,
and the witness should be warned in advance by the
prosecutor not to mention it.

MR. CORRIGAN: Part of the proof is
motive for the crime, and we contend that motive
for the crime is marital discord in this instance,
and we will show it by evidence and show it by
admissions made by this defendant.

MR. BAILEY: I contend that the
defendant was acquitted of first degree murder,

and evidence of a woman who hasn't been seen for three months or four months before the crime is wholly inadmissible.

MR. SPELLACY: May I ask the Court, please, motive is also applicable in second degree murder as well as in first. The difference between first and second doesn't preclude the offering of this type of evidence.

MR. CORRIGAN: Motive is applicable in any crime.

MR. BAILEY: Second degree crime is motivated for a flash of seconds, no more.

THE COURT: The motion for a mistrial is overruled. Please proceed.

Counselor, my understanding is you are going to offer proof at the appropriate time of marital discord?

MR. CORRIGAN: We are going to offer proof --

THE COURT: From the mouth of the defendant?

MR. CORRIGAN: Beg pardon?

THE COURT: From the mouth of the defendant?

MR. CORRIGAN: From the mouth of

the defendant by way of statement made in the presence of his attorney.

THE COURT: Motion overruled.

MR. BAILEY: May I have a running objection?

THE COURT: Yes, you may have a running objection.

Please proceed.

(Thereupon proceedings were resumed within the hearing of the jury, as follows:)

By Mr. Corrigan:

Q Will you continue, sir?

A At that time we told him that we had received information that he was having an affair with a nurse from Bay View Hospital, and that she was now in Los Angeles, and that at some time previously while he was in Los Angeles and his wife was staying some place else, that he had been seeing this nurse. He stated that is not true.

MR. CORRIGAN: May I interrupt at this point, your Honor, and may we see you at the side of the bench?

THE COURT: Yes.

(Thereupon counsel and the Court conferred at the Court's bench out of the hearing of the jury, as follows:)

MR. CORRIGAN: I specifically instructed this witness to stay away from any mention of a lie detector. I don't know whether you did, Leo.

MR. SPELLACY: I instructed him to stay away from any mention of a lie detector test.

MR. CORRIGAN: So he won't mention it.

MR. SPELLACY: He won't mention it.

Your Honor, I might say this, I know it hasn't been intentional, but during the course of the testimony there has been a considerable amount of shuffling back and forth on the other side of the trial table, and it is distracting, it is distracting to me. I don't know if it is distracting to the jury.

THE COURT: Let's keep the activity to a minimum, gentlemen.

(Thereupon proceedings were resumed within the hearing of the jury, as follows:)

Q Will you continue, please?

A At that time we told him we also received information that he had purchased a wrist watch for this nurse. He stated that is not true.

At that time I told him that the evidence points very strongly towards you, and that in my opinion you are

the one who killed your wife.

MR. BAILEY: I object, and move
to strike.

THE COURT: Objection overruled.
Motion to strike is overruled.

MR. BAILEY: Ask for a limiting
instruction.

THE COURT: Request denied.
Please proceed.

You have your continuing objection,
counselor.

By Mr. Corrigan:

Q Will you continue, please?

A As far as I can recall at this particular time, that
was just about the extent -- oh, I am sorry, at that time
he stated, "Do not be ridiculous. I have devoted my life
to saving the lives of people, and I love my wife."

Q This is in response to your statement, is that
right?

A That's right, yes, sir.

Q And you recall no further conversation at that
time?

A At this particular time I cannot recall any further
conversation?

Q Now, sir, calling your attention to July 10th, 1954,

did you have occasion to meet Sam Sheppard in this building?

A Yes, I did.

Q And what time of the day was that?

A About 9:00 or 9:15 in the morning.

Q And where did you meet him or see him?

A In Deputy Sheriff Rossbach's office in this building.

Q And where is that located in this building?

A On the fourth floor.

Q Who other than yourself and Sam Sheppard was present?

A There was Deputy Sheriff Rossbach, and Thomas Parrino, Detective Gareau, and Attorney Petersilge.

Q Do you know what the occupation of Thomas Parrino was at that time?

A At that time he was one of the assistant county prosecutors.

Q Do you know who Attorney Petersilge was?

A He was one of the attorneys of the -- of Sam Sheppard.

Q What was the purpose of this meeting?

A It was for the purpose of obtaining a statement from Sam Sheppard.

Q And was a statement obtained?

A Yes, there was.

Q And was this reduced to writing?

A Yes, it was.

Q And was this done in the presence of Attorney Petersilge?

A Yes, it was.

MR. CORRIGAN: Will you mark this?

(State's Exhibit 27 was marked for identification
by the reporter.)

Q Going back, sir, to your conversation at Bay View
Hospital at 3:00 in the afternoon, do you recall, sir, did
you have any conversation with Sam Sheppard relative to a
weapon?

A Yes, I did.

Q And will you relate to the Court and jury what that
conversation was?

A At that time we told him that his wife had been struck
a number of times with some type of an instrument, yet he
has no marks of any kind as far as an instrument or a weapon
is concerned on him, how can he account for that?

And he says he cannot account for it.

Q Now, sir, did you have any conversation with him
relative to clothing other than the jacket, the trousers,
and the loafers?

A Not that I can recall at this time.

Q Do you recall how he told you he was dressed when he
fell asleep?

A He stated at the time when he fell asleep he had a

brown corduroy jacket, a T-shirt, loafers, and trousers.

Q Now, sir, did you have any conversation about the T-shirt?

A Yes, we did have conversation in regards to the T-shirt.

Q Will you tell the Court and jury what that was?

A We told him at this time we were unable to find his T-shirt, if he knew what happened to the T-shirt, and he says no, he does not.

Q Now, sir, I hand you what has been marked for purposes of identification as State's Exhibit 27, and I ask you to examine that and tell the Court and jury whether or not you can identify it?

A Yes, I can.

Q And will you tell the Court and jury what that is?

A This is a statement that was taken from Doctor Sam Sheppard on July 10th, 1954.

Q And that statement was taken of him in whose presence?

A There was Deputy Sheriff Carl Rossbach, Patrick Garea, attorney Petersilge, myself, and Gertrude Mahon who was taking the statement down on a typewriter.

Q How many pages does that statement consist of?

A Nine pages.

Q What if anything was done with respect to each separate page as it relates to signatures?

A Each page has the signature of the witnesses and Samuel H. Sheppard on it.

Q Did Samuel H. Sheppard sign each of those pages in your presence?

A Yes, he did.

Q Now, sir, relative to the ninth and last page, what was the last question put to Sam Sheppard and what was his answer?

A The last question, "Have you read the above statement and is it the truth?"

Answer -- it is written in ink -- "Yes, it is the truth."

Signed, Samuel H. Sheppard.

MR. CORRIGAN: May it please the Court, at this time I would offer into evidence State's Exhibit Number 27.

MR. BAILEY: If it please the Court, I haven't had time to read it yet, and I would like to before making objection, or waive it.

THE COURT: Yes. Thank you, counselor. It is a rather lengthy statement; nine pages, I believe?

MR. CORRIGAN: Yes, sir.

THE COURT: I think we will have our morning recess, or at least a recess. Whether

or not we have another one in the morning remains to be seen.

But, ladies and gentlemen, while you are away from this room you will bear in mind the instructions previously given you, and you shall not discuss this case or what you have heard of it amongst yourselves.

You shall not permit anyone else to discuss it with you, nor permit yourselves to overhear anything that relates to this case by any means or communication.

We will stand recessed until you are notified further.

(Thereupon a recess was had.)

THE COURT: Ladies and gentlemen of the jury, since you have been away from the room the Court has spent most of that time with a consideration of a legal issue which has come into this matter, and has spent part of that time in consultation with the lawyers, relating to this legal issue. We are not completed.

I have asked counselors to return at 1:30 to my chambers, for further discussion of this matter.

I anticipate, however, ladies and

gentlemen, that shortly after 1:30 we will come to some resolution on it. So we will be prepared to take further testimony at that time.

So while you are away on your luncheon hour, and you will have from now until 1:30 for your luncheon, you will bear in mind the instructions previously given to you.

You shall not discuss this case or what you have heard of it amongst yourselves. You shall not permit anyone else to discuss it with you, nor shall you permit yourselves to overhear anything that relates to this cause by any means of communication.

Arrangements have been made for you to have your lunch at a place different from those places that you had it earlier in the week; and enjoy it.

Recess for lunch.

(Thereupon an adjournment was taken to 1:30 p.m., Friday, November 4, 1966, at which time the following proceedings were had:)

Friday Afternoon Session, 1:30 p.m., November 4, 1966

(Thereupon the following proceedings were had
in Court's Chambers:)

THE COURT: Let the record show
conference in Chambers, and the parties present,
including all counsel, that is, the counsel present
and the Court.

Let the record show that counsel and
the Court have considered State's Exhibit 27,
and that State's Exhibit 27 in its original form
consists of nine pages, to which reference has
already been made in the record by the witness,
Officer Schottke.

Let the record show that the Court is
going to allow the first three pages of the state-
ment in toto.

That with respect to page 4, that portion
of the statement above the question, "How long had
you known your wife Marilyn?" that portion above
that question is permissible. The balance of
page 4 is ordered stricken, and out.

All of page 5 is ordered out.

Page 6 is admissible and permissible,
up to the point, "Do you own a Jaguar sport car?"
that sentence and thereafter are excluded on page 6.

All of page 7 is excluded. The first half of page 8 up to the question, "The night of July 3rd, 1954," the first half of the page is excluded, and commencing with the question, "The night of July 3rd, 1954," the balance of page 8 is permitted to be admitted, and all of page 9 will be permitted and admitted, including, of course, the signatures of the parties on page 9.

Counselor Corrigan, do you wish to speak to the Court's ruling?

MR. CORRIGAN: No, your Honor.

THE COURT: Counselor Bailey or Sherman, do you wish to speak to the Exhibit 27 and the Court's ruling just entered?

MR. BAILEY: We do, your Honor, we object to the receipt in evidence of so much of the statement just described which remains unexcised, as relates to Susan Hayes, and specifically to one page of the statement as excised which is to be received as State's Exhibit 27, which appears to be the remnants of the 7th page, but at any event it begins with the question, "Did you ever have an affair with a Sue Hayes?" and ends at the bottom of the page with an answer, "My wife didn't know of this until in casually discussing the trip some

time during our trip home, that is, me and my wife, or after we had reached home shortly, at which time she became somewhat upset, failing to understand the intent. I wish to add, I told her of this voluntarily."

We think that entire page should be stricken, and do not object to the balance of the statement being received.

THE COURT: Let the record further show that in support of the Court's ruling for including those portions in the statement which have been objected to by Counselor Bailey for and on behalf of the defendant, the Court cites as its authority Volume Number 1, Wharten, Criminal Evidence, Volume 1, page 325; 91 Northeast, page 340, Supreme Court of Indiana decision; State vs. Lancaster, 167 Ohio State 371; 27 Ohio Jurisprudence, 2nd, paragraph 118, and paragraph 122.

MR. BAILEY: May the record show in addition that our objection to Susan Hayes is predicated on the singular history of this case wherein the defendant was acquitted in 1954 of murder in the 1st degree.

The defense takes the position that

the State is forever barred from proving premeditation in connection with this crime, and that the evidence relating to Susan Hayes is not relevant for any purpose other than possible premeditation.

(Thereupon proceedings were resumed in the courtroom, and in the presence and hearing of the jury, as follows:)

THE COURT: Good afternoon, ladies and gentlemen.

THE JURY: Good afternoon.

THE COURT: Counselor Corrigan, please proceed.

MR. CORRIGAN: May it please the Court, may I have a ruling from the Court on the offering of State's Exhibit 27 into evidence?

THE COURT: State's Exhibit 27 in its present form will be received.

MR. CORRIGAN: May I request of the Court the opportunity to read at this time to the jury State's Exhibit 27.

MR. BAILEY: I ask that that be postponed in view of the other problem that we have discussed. It is simply a question of time, your Honor, on the witness to be interjected.

THE COURT: The motion to read to the jury the statement which has been received as State's Exhibit 27, is hereby granted.

MR. CORRIGAN: Thank you, your Honor.
(reading) July 10, 1954, 11:40 a.m. Sheriff's Office, County of Cuyahoga.

Doctor Samuel H. Sheppard, you are now being questioned and may be charged with the crime of Murder at a later date. The law gives you the right to make a statement if you so desire. Anything that you may say here may be used either for or against you at the time that you are brought to trial in court. Now that you understand these facts, do you wish to make a statement telling us the truth about the facts that caused your questioning at this time?

A Yes.

Q Has any drug or medicine been administered to you within the past twelve hours?

A Just about twelve hours ago I did have a grain and a half of seconal which is a short acting barbiturate and should have no effect on me at this time.

Q Is there any doubt in your mind but what you can sit here and give us a true state-

ment of what you know that occurred in your home on the night of July 3rd, 1954, at 28924 West Lake Road, City of Bay Village, Ohio?

A I feel that at this time I can tell all that I know.

Q Proceed.

A After having a difficult morning and early afternoon at Bay View Hospital where I am in charge of the accident room, and the head of the Department of Neuro-surgery, I made a couple of visits and then proceeded home.

I arrived home at a time later than five o'clock, realizing this because I had hoped to work in the yard with my family, and found that it was too late to do so.

My wife informed me that we--correction--that she had planned to get together with Mr. and Mrs. Ahern that evening. We were to go to their home for a drink before dinner, and then return to our home for dinner.

We realized that there were a couple of business matters involving vouchers that we should record, and we did this before leaving the house. We compared notes and

my wife recorded the material on the Sheppard Clinic vouchers.

We soon thereafter went down to the Ahern's and drove our larger car, as I recall. The Ahern's were both working in the yard with their children, and we instructed them not to stop but to continue with their work as we chatted. My son was playing with youngsters in the yard.

Mrs. Ahern insisted on going inside shortly thereafter and Mr. Ahern instructed his young son how to continue the lawn mowing with their power mower.

We shortly went into their kitchen and some type of mixed drinks were prepared. I am not absolutely clear in regard to the exact nature of this drink, since we often have done this in the past, and I could confuse one incident with another.

Shortly thereafter, or after being there for a short time, I received a telephone call from the hospital in regard to a youngster that had broken his femur which is the thigh bone. I had received this call as a result of reporting their number to the hospital

in regard to my whereabouts. The type of fracture was described to me and I decided that I had best go to the hospital and evaluate the situation.

I asked Mrs. Ahern to find me a clove so that I could put this in my mouth and overcome any slight odor.

I got into the car and proceeded to the hospital where I examined the youngster and the X-rays that had been taken. This youngster, as I recall, was visiting here and lives in an area near Youngstown. I believe it was the father with the youngster, but I am not absolutely sure.

I explained that the youngster should be treated in the hospital, and we hoped could soon be transported to the Youngstown Hospital, which I attend in the capacity of neurosurgeon and traumatic surgeon. I then got in my car and returned toward my home, passing it since I did --

MR. CORRIGAN: That is the end of the page, and the signature Samuel H. Sheppard appears thereon, as do the signatures Carl Rosabach, Deputy, Patrick A. Careau, Detective, Robert F.

Schottke, Detective, Arthur E. Petersilge.

Page 2. (reading)

--not see signs of the Ahern's, my wife and the children. So I returned to Ahern's home. Mrs. Sheppard shortly left to start the dinner. I and the Ahern's followed soon thereafter. I believe the children went with us, but they may have run over by themselves, I really don't know.

At our home Mr. Ahern and I chatted, and the children played while the girls prepared dinner.

The youngsters somehow evinced interest in my punching bag in the basement, so I took them downstairs and placed a bushel basket under it so that they might reach the bag in order to hit it.

I spent a moment or two with them, showing them how it should be properly struck.

I recall now that the children were fed in the kitchen before we ate. Shortly thereafter we four adults had dinner on the porch.

It was quite breezy, the wind coming from the north generally, it may have been

northeast or northwest but since the porch was cool, sweaters and jackets were in order, and I put on my brown corduroy jacket. The others I am not sure of what they wore. I remember that my wife had baked pie which is my favorite dessert. The other types of food I can't truly remember.

After we had completed a leisurely dinner, Mrs. Ahern made some mention of a movie, but we recognized that it was too late to attend a movie, so we kiddingly suggested the television movie.

The girls must have cleaned up the dishes while Mr. Ahern and I went into the front room.

I am not clear on anything from dinner to the time we watched television together, but the dishes were cleared up.

I think Mr. Ahern took his children home and put them to bed, and my youngster must have been put to bed by my wife, but I don't remember.

Mrs. Ahern, my wife and I started to watch the television movie or program. I think it was a movie and as I recall now,

Mr. Ahern sat over in the northwest corner of the room, that's the side toward the lake, with a small radio turned on just loud enough for him to hear it and listened to a ball game which was in progress.

The three of us watched the movie and Mr. Ahern reported the progress of the game a couple of times. He then either turned the game off or it had terminated, and he came over to sit and watch television with us. My wife and I were sitting quite close in one chair and that's the last time I recall her in a relatively normal state, clearly.

Mrs. Ahern seemed to be stimulated by our apparent affection and she sat on Mr. Ahern's lap for a short while.

Some time within the next few minutes, my wife moved to the chair next to me because the cramped position as a result of the two of us in the chair, she said strained her back. Mrs. Ahern also moved either before or after that.

We chatted as the program progressed, and I became tired, relatively drowsy. I

moved to the couch in the living room, situated on the west wall of the staircase and the east wall of the L-portion of the living room which protrudes toward the road.

I lay down with my head toward the television in a prone position, holding my head and watching television. The television is on the north side of the room. My head was nearer the television set than my feet. It was toward the television set. There may have been a pillow helping to hold my head.

I evidently became very drowsy and fell asleep.

I recall wearing summer cord trousers, a white T-shirt, mocassin type loafers with no shoe strings, I am not sure of the socks.

I don't know whether I had removed my brown corduroy coat that I had put on earlier, or whether I did at this time or not.

The next thing that I recall very hazily, my wife partially awoke me in some manner and I think she notified me that she was going to bed. I evidently continued to sleep.

The next thing I recall was hearing

her cry out or scream. At this time I was on the couch. I think that she cried or screamed my name once or twice, during which time I ran upstairs, thinking that she might be having a reaction similar to convulsions that she had had in the early days of her pregnancy.

I charged into our room and saw a form with a light garment, I believe, at the same time grappling with something or someone.

During this short period I could hear loud moans or groaning sounds and noises. I was struck down. It seems like I was hit from behind somehow but had grappled this individual from in front or generally in front of me.

I was apparently knocked out. The next thing I knew I was gathering my senses while coming to a sitting position next to the bed, my feet toward the hallway.

MR. CORRIGAN: This is the end of this page, with the ink signatures Samuel H. Sheppard and the names Patrick Garsau, Detective, Robert F. Schottke, Detective, Arthur E. Petersilge, Carl Rossbach, Deputy.

Continuing on the next page: (Reading)

In the dim light I began to come to my senses and recognized a slight reflection on a badge that I have on my wallet. I picked up the wallet and while putting it in my pocket, came to the realization that I had been struck and something was wrong.

I looked at my wife, I believe I took her pulse and felt that she was gone.

I believe that I thereafter instinctively or subconsciously ran into my youngster's room next door, and somehow determined that he was all right. I am not sure how I determined this.

After that, I thought that I heard a noise downstairs, seemingly in the front eastern portion of the house. I went downstairs as rapidly as I could, coming down the west division of the steps.

I rounded the "L" of the living room and went toward the dining table situated on the east wall of the long front room on the lake side.

I then saw a form progressing rapidly somewhere between the front door toward the

lake and the screen door, or possibly slightly beyond the screen door. I pursued this form through the front door, over the porch and out the screen door.

All of the doors were evidently open, down the steps to the beach house landing, and then on down the steps to the beach, where I lunged or jumped and grasped him in some manner from the back, either body or leg, it was something solid. However, I am not sure.

This was beyond the steps an unknown distance, but probably about ten feet. I had the feeling of twisting or choking and this terminated my consciousness.

The next thing I know I came to a very groggy recollection of being at the water's edge on my face, being wallowed back and forth by the waves. My head was toward the bank, my legs and feet were toward the water.

I staggered to my feet and came slowly to some sort of sense. I don't know how long it took but I staggered up the stairs toward the house and at some time came to the realization that something was wrong and that my

wife had been injured.

I went back upstairs and looked at my wife and felt her and checked her pulse on her neck and determined or thought that that she was gone.

I became or thought that I was disoriented and the victim of a bizarre dream and I believe I paced in and out of the room and possibly into one of the other rooms.

I may have re-examined her, finally realizing that this was true.

I went downstairs, I believe I went through the kitchen into my study, searching for a name, a number, or what to do. A number came to me and I called, believing that this number was Mr. Houk's.

I don't remember what I said to Mr. Houk. He and his wife arrived there shortly thereafter.

During this period I paced back and forth somewhere in the house, relatively disoriented, not knowing what to do or where to turn.

I think that I was seated at the kitchen table with my head on the table when they

arrived, but I may have gone into the den. I went into the den as I recall, either before or shortly after they arrived.

The injury to my neck is the only severe pain that I can recall, I should say, the discomfort in my neck.

I didn't touch the back door on the road side, to my recollection.

Shortly after the Houk's arrived, one of them poured half a glass of whiskey as they knew where we kept a small supply of liquor, and told me to drink it. I refused, since I was so groggy anyway. I was trying to recover my senses.

I soon lay down on the floor. Mr. Houk and Mrs. Houk went upstairs, I am not sure of their actions. Mr. Houk called the police and the ambulance, this is in my recollection, and also my brother Richard.

I am pretty sure that Mr. Houk called the police station from my study because he said, "Bring an ambulance" -- correction-- he referred to the need of an ambulance and maybe two. He also called my brother Richard.

I remember my brother, Doctor Richard,

speaking with me for a moment and looking at me. I believe Officer Drenkhan spoke to me and asked how I had been injured. I can't recall my reply for sure.

Soon thereafter I was on the floor trying to give my neck and head some support, when Doctor Stephen Sheppard examined me some time thereafter.

Doctor Stephen Sheppard assisted me to his car, which I think was his station wagon, which as I recall, was just behind the Bay Village ambulance. I remember no other specific vehicles. I was transported to Bay View Hospital.

MR. CORRIGAN: And this is signed Samuel H. Sheppard, in ink; and the ink signatures of Patrick A. Careau, Detective; Robert F. Schottke, Detective; Arthur E. Petersilge; and Carl Rossbach, Deputy, appearing at the end of that page.

Continuing on the next page: (Reading)

I related some of the incidents to Mayor Houk and one or more of the Bay Village police officers. Later in the morning I was questioned by Doctor Gerber and at another

time by two officers of the Cleveland Police Department, Officers Schottke and Gareau.

Later, I believe, later in the day, I was again interviewed by Officers Schottke and Gareau in the presence of Chief Eaton of the Bay Village Police Department.

At this time I was asked to explain some things that I had no explanation for. I was shown a green bag, a green cloth bag, looked like heavy cloth. I thought it was eight or ten inches long and five inches wide. I was asked to identify it. It looked to me like a bag that is used to carry motor boat tools. This was similar to the bag, if not the same bag, that accompanied my Johnson outboard motor when I purchased it.

I was also shown a watch that I identified as mine, and questioned why there was blood on the band and crystal and why it had been found in this bag with some other articles in the weeds behind my house on the bank.

I am not sure but I believe Officer

Schottke said that there was also a ring and key chain, also, in the bag, but I don't believe that he showed me these articles.

I told him, as I recall, that I had attended stock car races two or three days previously with my wife, Otto Graham and his wife, and I didn't mention the children as I recall, and was caught in a drenching rain, at which time I wore no coat or jacket, but I don't think I explained this at that particular time.

I since recall having inadvertently water-skied with my watch on in the past few days and had noticed a great deal of moisture in the crystal.

I had commented on this to my wife and some other people, I am not sure who. My wife planned to take the watch to Halle Brothers in the near future where she had purchased it.

I was subjected to a period of questioning, all of which I can't recall at this time, but was reminded of this morning, and then the officers left.

MR. CORRIGAN: Continuing on the next page. (Reading)

Q Did you ever have an affair with a Sue Hayes?

A I wouldn't call it an affair but we have been good friends for some time, which was known to my wife.

Q Had she been employed at Bay View Hospital?

A Yes, I don't know the exact dates. She was employed there when I initiated my work at the hospital, and she terminated her work there some time last winter or early spring in 1953. She returned some time later in that year and terminated her work again at the hospital some time early in 1954. She went to California.

Q In what capacity was she employed at the hospital?

A Laboratory technician.

Q While at work you had considerable contact with her, didn't you?

A Yes.

Q To what extent?

A She did a great deal of the technical laboratory work on all of the doctors' patients in the hospital and was the only

technician practically that readily answered emergency calls on accidents or emergency surgical cases. I might also add that she was considered during her stay one of the authorities when special work was necessary.

Q Is it true that you socialized a lot with her?

A In the hospital, yes. I wouldn't call it socialized. We talked, we became good friends.

Q Nothing more than good friends?

A No.

Q What was the occasion for you purchasing a wrist watch for her?

A She was in California at the time I was there in March of 1954, and I had asked her with some of her friends to accompany me with a group of doctors and wives to a dinner, at which time or during the evening she lost her wrist watch. I paid the check for the dinner which, incidentally, amounted to more than the wrist watch was worth, and knowing that she could not afford to purchase another one, I purchased one for her which was consistent with the one that she had lost, in

price range.

Q Did your wife Marilyn know that you were contemplating purchasing this wrist watch or did she know immediately thereafter?

A My wife didn't know of this until in casually discussing the trip some time during our trip home, that is, me and my wife, or after we had reached home shortly, at which time she became somewhat upset, failing to understand the intent. I wish to add, I told her of this voluntarily.

MR. CORRIGAN: Continuing on the next page: (Reading)

Q The night of July 3rd, 1954, when you reached the top of the stairs, after you heard Marilyn's outcries, you say you saw someone standing beside the bed occupied by your wife, were they standing or stooping over the bed?

A I don't recall seeing anything from the head of the stairs, it happened so rapidly, it must have been when I entered the room and I don't know whether they were standing or stooping.

Q Immediately upon entering this room, did you have an opportunity to make some examination of your wife?

A No.

Q Why?

A Because as I told you, I seemed to be immediately engaged in grappling with someone.

Q Do you know what portion of the body of this person you were grappling with that you had hold of?

A I don't recall holding any portion of the body in the bedroom.

Q You stated that you were assaulted from behind when you entered the room or immediately thereafter?

A I felt that I was engaged from a direction somewhere within 180 degrees in front of me and yet seemingly was struck from behind as I stated above.

MR. CORRIGAN: Then this is signed Samuel H. Sheppard in ink, and in ink appearing also is the name Robert F. Schottke, Carl Rossbach, Arthur Petersilge, and Patrick Gareau, Detective. Continuing on the next page: (Reading)

By Detective Robert Schottke:

Q At the time you were assaulted on the beach, what was the condition as to light or darkness?

A As I related before to Mr. Rossbach, it was just lighter than dark. It was not as dark as darkest night. There was a light seemingly starting, about the best way I can put it, as though daylight was just barely beginning.

Q At the time when you and this man were tussling or fighting on the beach, about how many feet of beach was there?

A I don't know.

Q At the time when you were fighting with this man, could you feel any water in which you were fighting?

A I can't say for sure but it seemed like the beach was firm, as though it had been washed over and packed somewhat.

Q At the time when you woke up, will you explain your position on the beach as to this retaining wall, how many feet you were from this retaining wall?

A I don't know, I can't say, but I think I can say that I was between the easterly end of that retaining wall and the steps, but I cannot say how far I was north-southwise.

Q At the time when you woke up on the beach, will you tell us as to the condition of the

wind and the waves?

A It seemed that it was somewhat windy and the waves were moderately high, I'll say too high to water ski and not too high to fish, not real high but moderately high.

Q Is there anything else that you can tell us about this, Doctor?

A Not that I can think of now. I wanted to say that I have come here of my own free will to help you in every way that I can to solve this tragedy and I hope that you will give me the opportunity to give you any additional information when and if I shall be able to remember it or find it.

Q Have you been treated fairly during the course of this questioning?

A Yes, absolutely.

Q Have you read the above statement and is it the truth?

A Yes, it is the truth.

MR. CORRIGAN:

It is signed Samuel H.

Sheppard. Witness: Signed in ink, Patrick A.

Careau, Detective. Witness: Robert Schottke,

Detective. Witness: Arthur E. Petersilge.

Witness: Carl Roszbach, Deputy. This statement taken by Gertrude Bauer and concluded at 4:15 p.m., Saturday, July 10th, 1954.

MR. CORRIGAN: May it please the Court, we have nothing further with the witness, Robert Schotke.

However, if we may, we would like to call another witness out of order, who we contemplate will be very brief, and then we will return this witness for cross examination.

THE COURT: Counselor Bailey?

MR. BAILEY: The defense will consent to that procedure.

THE COURT: Officer, you understand that while your direct examination has been completed, that your counselor has requested that another witness be called out of order.

The Court is going to grant that request, but you will remain available for cross examination if any by the defense.

THE WITNESS: Yes, sir.

THE COURT: Thank you, sir. You are excused for the time being. Call your next witness.

MR. SPELLACY: The State will call

Nancy Ahern.