

Thereupon EDMOND L. VERLINGER resumed the stand and was examined and testified further, as follows:

EXAMINATION OF PROS. JUROR EDMOND L. VERLINGER (CONT'D)

By Mr. Corrigan:

Q Mr. Verlinger, do you have any relatives that are doctors?

A No, sir, -- well, yes, I do, sir.

Q What?

A Yes, sir, I do.

Q And what is his name?

A Dr. Depompei.

Q How do you spell it?

A D-e-p-o-m-p-e-i.

Q Did you on any occasion ever discuss the matter of osteopathic medicine and the other kinds of medicine with him?

A No, sir, I haven't.

Q Never been a discussion. Now, the indictment in this case charges that Dr. Sheppard is charged with unlawfully, purposely and of deliberate and premeditated malice with having killed his wife, Marilyn. They are the elements of first degree murder, unlawfully, purposely, and of deliberate and premeditated malice.

If the Court charges you that it is incumbent upon the State to prove each one of those elements that is charged in

that indictment by evidence beyond a reasonable doubt, and that the proof of one element or two elements is not sufficient, but all the elements must be proven, will you abide by that rule and follow that charge in this case?

A Yes.

Q Now, Mr. Mahon has talked to you about circumstantial evidence, and if the Court says to you that it is the rule of law that when reliance for conviction is placed upon circumstantial evidence, the facts and circumstances upon which the theory of guilt is placed must be shown beyond a reasonable doubt, and when taken together must be convincing -- must be so convincing as to be irreconcilable with the claim of innocence by Dr. Sheppard, and must admit of no other supposition except the defendant's guilt -- now, if the Court charges you that that is the law of Ohio, will you apply that law and abide by that law in your deliberations in this case?

A Yes.

Q Now, if you are accepted as a juror and remain as a juror in this case, will you try to please anyone with your verdict? Will you try to please anybody with your verdict?

A No, just myself.

Q You will decide this, you will be the judge?

A That's right.

Q And will you consider the effect of your verdict on anybody?

A No, sir.

MR. MAHON: I object to that.

THE COURT: Well, he has answered
the question. All right.

Q If you are accepted as a juror in this case, will you say, Mr. Verlinger, that you will not discuss it with anyone, or you will not be influenced or swayed by anything anybody says outside of this courtroom?

A That's right.

Q Now, will you base your verdict entirely and solely upon what you hear in this courtroom, the sworn testimony of people who come here and sit in that seat you are in and the law Judge Blythin says is the law that guides you in this matter?

A Yes.

Q Now, there will be some distressing features of this case. There will be the result of an autopsy, the opening of a human body and the description of a human body of this young lady, the description of wounds and blood, and so forth.

Is there anything about that that would cause you any difficulty?

A No, sir.

Q You were in the Army, you say?

A That's right, sir.

Q For three years?

A Yes, sir.

Q What division of the Army were you in?

A 5th Infantry Division.

Q That was in France, wasn't it?

A That's right, sir.

Q And that was a combat infantry division?

A That's right.

Q You were a combat soldier?

A Yes, sir.

Q Now, I believe I asked you that you wouldn't--well, I did ask you that question, so I won't ask it again.

Now, the Court asked you if you believed in capital punishment. You said you did.

A That's right.

Q And you know that under the law of the State of Ohio a verdict of guilty of first degree murder carries with it the penalty of death unless the jury recommends mercy?

A I do, sir.

Q Is there anything about your opinion on a first degree murder case that would preclude you from entering into a verdict that carried with it mercy?

A No.

MR. DANACEAU: Objection.

MR. CORRIGAN: That is the law, isn't it?

THE COURT: No, it is not quite correct, Mr. Corrigan, but, all right, he has answered

the question. Go ahead.

Q Now, would the fact alone, Mr. Verlinger, that Dr. Sheppard was alive in his house when his wife was found dead, and that his child was alive in the house when the wife was found dead, of itself, without any supporting evidence, be sufficient in your opinion to convict Sheppard of first degree murder?

MR. MAHON: Objection.

MR. DANACEAU: Objection.

THE COURT: He may answer that.

A No, sir.

Q Did you ever hear of Susan Hayes?

THE COURT: Ever hear of what? ✓

Q Of Susan Hayes?

A Not until just recently.

Q You read about her in the paper?

A That's right.

Q Did you read statements that she made?

A No, I can't recall that I have.

Q You do not know her parents?

A No, sir.

Q Or her?

A No, sir.

Q They live on Wagar Avenue in Rocky River.

A No, sir.

Q

Suppose evidence was produced that the defendant had some affairs with another woman or other women during his married life, would that prejudice you against him or create in you a sense of ill-will towards him so that you would disregard the proof necessary to convict in a first degree murder? ✓

MR. DANACEAU: Objection.

THE COURT: Objection sustained. ✓

MR. CORRIGAN: Now, if your Honor please, there isn't any question -- I know the case. I know in the main what evidence the State will produce here. I know that in the evidence there will be produced here that they will bring in testimony of Susan Hayes in regard to extra-marital relations. I have a right to --

THE COURT: What if they don't?

MR. CORRIGAN: What?

THE COURT: What if something should develop in the meantime that they don't? ✓

MR. CORRIGAN: Well, how can you tell that they won't? They have announced that they will. She is the star witness in the case.

Now, am I going to be forced in this case to accept upon the jury a person or a juror who has ideas about sexual relations that are such and so strong that that person will be prejudicial to the

defendant?

Now, we are entitled to a fair jury, as you have said and as you know and we know, when we get into the subject of sex that some people have very strong opinions about it, and some people consider a sex crime or a sex deviation worse than murder.

Now, the Supreme Court has said on the purpose of the examination of a prospective juror -- and I read from Dowd-Feder versus Truesdell, 130 Ohio State, and the opinion seems to be by Judge Day that sits in this Courthouse now when he was on the Supreme Court, and the first syllabus of that case is, "The purpose of the examination of a prospective juror upon his voir dire is to determine whether he has both the statutory qualifications of a juror and is free from bias and prejudice for or against either litigant."

Now, how can I tell and how can you tell what is in the mind of a person in regard to this sex situation that is going to be part of this case? What do you suppose all these people are here for, these reporters? Do you think because it is an ordinary murder case? They are here because there is a sex angle in it. That is the only reason that they are brought here and that this thing is being

spread all over the country. There was a man over on 9th Street that --

MR. DANACEAU: If the Court please, we have gone far enough.

MR. CORRIGAN: Whether you like it or not, I am arguing my question.

MR. DANACEAU: We have three prospective jurors in this room now, and Mr. Corrigan has raised a hullabaloo about prejudice and bias.

MR. CORRIGAN: You will hear it again.

MR. DANACEAU: It applies to you as well as it does to those newspaper men. You have no more right to bias or prejudice jurors than they have.

MR. CORRIGAN: I am not trying to bias or prejudice jurors.

MR. DANACEAU: You certainly are.

MR. CORRIGAN: Let's not get excited about the question.

MR. DANACEAU: I am not excited. We are objecting to it.

THE COURT: Mr. Corrigan, the Court is satisfied that it is not a proper line of inquiry here at this time.

MR. CORRIGAN: Supposing, your Honor, that

a person gets on that jury there that has opinions of that kind? Then I can exercise a peremptory challenge, and the reason that I am doing this is to find out --

THE COURT: Let's go back to the basic principle that if you are going to inquire into every prospective juror every opinion about all the subjects imaginable that could come into this case, we will be here --

MR. CORRIGAN: No, I am not.

THE COURT: We will be here for the rest of the time just questioning prospective jurors.

MR. CORRIGAN: No, I am not going to do that.

THE COURT: Now, all we need to hear is to be sure that we do have a jury whose members will confine their considerations to the evidence and the charge of the Court. They may have all kinds of prejudices about collateral matters in everyday life, and I don't know how you are going to inquire into all of those in this kind of a limited inquiry. I use the word "limited" meaning, of course, we have got to still be generous about it, but I think we are going too far afield when we go into these questions that you suggest.

MR. CORRIGAN: That is the main question in this case, your Honor.

THE COURT: Oh, I don't think so. ✓

MR. CORRIGAN: Well, you don't think so, but I am the lawyer and I do think so.

THE COURT: The real question is whether Sam Sheppard murdered Marilyn Sheppard. That is the real question. The sooner we get to the point, Mr. Corrigan, where we are keeping our eye on the bull's eye, the better we are going to be.

MR. CORRIGAN: I am keeping my eye on the bull's eye, but I do not want a prejudiced juror on this case on the question of sex. ✓

THE COURT: That's right. Neither does the Court on any question.

MR. CORRIGAN: I wouldn't think that you would want that.

THE COURT: That's right.

MR. CORRIGAN: Now, are you going to say to me that I have to accept a juror here in the matter of that question that I don't know what his mind is, and that I can't use it to exercise a peremptory challenge? That is not the law, your Honor. ✓

THE COURT: We are not trying anyone for any sex offense here.

MR. CORRIGAN: You are going to try somebody for a sex offense.

THE COURT: No.

MR. DANACEAU: No.

MR. CORRIGAN: Yes, your Honor.

MR. MAHON: No.

THE COURT: Well, anyway, let's pass it and you will take your exception. The Court will not permit that.

MR. CORRIGAN: Well, I want to talk to you about that again, your Honor, because you clearly are shutting me off from a very important question in this case, that is extremely important, and it isn't fair to this defendant to shut that off.

THE COURT: Well, the Court does it deliberately and knowing that he is doing it, and because he believes that it is a proper rule to follow, and for no other reason at all.

MR. CORRIGAN: Well, the purpose of an examination of a prospective juror -- the Supreme Court must have some influence on your mind, your Honor.

THE COURT: Well, I am within that rule of the Supreme Court clearly now. I want to be, of course.

MR. CORRIGAN: I will read you the
120 Ohio State.

"The purpose of the examination of a prospective juror upon his voir dire is to determine he has both the statutory qualifications of a juror and is free from bias or prejudice for or against either litigant. The scope of the inquiry will not be confined strictly to the subjects which constitute ground for the sustaining of a challenge for cause." Pableonis versus Valentine, 120 Ohio State 154.

Now, that is the Supreme Court, and the Court here is restricting us on the very important question that comes up here, and I think the question, in all fairness to this defendant, should be allowed. You haven't read the case, your Honor. You say "No" without consulting the authority.

THE COURT: Well, we will proceed now on the theory that we are correct. The Court will examine those authorities later in the day and find out --

MR. CORRIGAN: Well, I think it is most unjust to the defendant, as you will discover before you get through with this case, not to allow that question.

By Mr. Corrigan:

Q Would the fact that the State of Ohio or the prosecutor produced evidence to show other offenses on the part of the defendant for the purpose of proving motive in the case of this first degree murder case, cause you, as a juror, to disregard the elements of first degree murder as set forth in the indictment?

MR. DANACEAU: Objection.

THE COURT: Let him answer that.

A No, sir.

Q And make your finding upon the other -- the proof of the other offenses?

A No.

Q It would not.

MR. CORRIGAN: We want to except to the ruling of the Court on the other.

THE COURT: Yes.

Q I think, Mr. Verlinger, I have asked you a lot of questions, and you have heard some argument between myself and the Court. That is perfectly within the bounds of a lawsuit that the attorney may present his argument to the Court as vigorously as he can.

Now, I am about to accept you as a juror and to pass you for cause, and before I do I will ask you, Mr. Verlinger, if there is anything in your mind that I haven't inquired

about that you believe would prevent you from being a fair and unbiased juror and to be a judge in the case of the State of Ohio against Sam Sheppard?

A Yes, I think there is.

Q What is there?

A Well, the length of time that it might take for the trial. I have got a family to feed at home, and I won't be getting paid for it from my employer. I own my own home, I have got payments on that.

Q Now, let me ask you if the pressure of your obligations and the fact that you would be here for a number of days, would that make you impatient and dissatisfied and not be able to give this man a fair trial?

A No, it wouldn't.

Q It would not?

A No.

Q Would it make you hurry with your verdict to get rid of it to get back home and not give it proper deliberation?

A No, I don't believe it would. I'd see to it that it wouldn't. That man's life --

Q His life is at stake in this courtroom.

A That's right.

Q And you would give it proper deliberation?

A I would.

Q Although these personal matters would be bothering you?

A That's right.

Q Is there anything else that you think of?

A No, sir, not that I know.

MR. CORRIGAN: Pass for cause, except reserving my exception on the ruling of the Court on this question that I have asked.

THE COURT: Now, sir, will you be good enough to take that chair, No. 3, over there?

(Prospective Juror Verlinger does as requested.)
