

and claims that we have heretofore filed with the Court, and we renew those motions at this time, and ask for a ruling by the Court on both of our motions.

In urging the granting of the motions, we wish to call to the Court's attention that all the people sitting on the jury, with the exception of Mrs. Borke, Juror No. 2, have read about this case, have talked about this case, a great many have heard radio and television, and we still maintain that even though they express they have no opinion, that human nature is such that they cannot help but be affected by the situation presented from the beginning of this -- the happening of this murder down to the present time.

We therefore renew our motions. And Mr. Garmone calls my attention to the fact that all the jurors in the box, with probably the exception of one, have testified that they have had opinions expressed around where they were.

THE COURT: Well, now, Mr. Corrigan, the Court did overrule the motion to continue, but you again renewed it in the midst of this jury inquiry, and it may be considered renewed again, and we will treat it at this moment as being renewed,

and will be passed upon by the Court. The Court has no difficulty whatever in saying that he will overrule that motion.

Now, coming to the other, you have tendered some evidence, and the reason he doesn't overrule your renewed motion to continue now is that at the point when you proffered some exhibits here, you did it in connection with the renewal of your motion, and I would gather that those were offered in support of both motions, is that right? ✓

MR. CORRIGAN: Yes.

MR. GARMONE: That's right.

MR. CORRIGAN: I will offer them again at this time, your Honor.

THE COURT: All right. The Court will overrule the tender of those, but show them proffered, of course, and if you have any others, the Court is perfectly willing to have you put them in the record and deal with them as if they had been proffered at this time, with the understanding that the prosecutor, of course, knows what is being tendered. I am perfectly willing you make the record, but the Court has reached this conclusion very definitely, and he is just now where he was on the theory of the matter at the outset of this attempt ✓

to empanel a jury:

That the best evidence in the world is the effort to select a jury, and what we get here in a picture that has taken almost two weeks of time. The Court is thoroughly satisfied that we have here a fair and impartial group of people to try this case, and I doubt if under any conditions at any time anywhere in this State you could have a better looking group of people and a more intelligent group of people, as a whole, to try a case of this kind, and the Court is thoroughly satisfied that they are a group of fair and impartial people who can properly try this case under the guidance of the Court, and I hope we will be able to give them that in the manner that it ought to be given.

The Court is prepared to overrule both motions, and exceptions will be taken as to each, and with the reservation that you may make the record on what you would have produced in support, particularly, of the motion for change of venue. ✓

MR. CORRIGAN: I have, your Honor, Defendant's Exhibits No. 1 and 2, which were records of newspapers printed in the city of Cleveland during the time up to the beginning of this case. ✓

THE COURT: Yes. Mr. Corrigan, where

are they?

MR. CORRIGAN: The court reporter has them. It isn't necessary to bring them here into court again.

THE COURT: No, but we ought to, before we leave this matter at this stage of the proceedings -- after we get the jury here, we ought to get them together and make sure where they are and see that they are properly marked.

133 MR. CORRIGAN: Well, without taking up any more time, we will leave it go that way, and sometime during the course of recess we will bring those into court and see that they are properly marked.

MR. GARMONE: May we consult with the Court in his chambers, all sides?

MR. MAHON: Can't we do it here?

MR. GARMONE: We can do it here.

THE COURT: If the rest of the good people --

MR. GARMONE: It is just on the question of the number of alternates.

THE COURT: Well, that is exactly what I had in mind. We haven't discussed that at all. What is your thought, gentlemen, as to the number of