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Thereupon the State of Ohio, further to maintain the issues on its part to be maintained, called as a witness THOMAS R. WEIGLE, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Mahon:

Q Will you tell us your name, please?

A Thomas R. Weigle.

Q Where do you live, sir?

A 15987 Nelamere Road, East Cleveland.

Q Where are you employed?

A At the Brooks Company, sir.

Q And what business are they in?

A We are in the office furniture, office supply and the printing business.

Q And what do you do there?

A I am an outside salesman in the office furniture and the office supply division.

Q Do you know Sam Sheppard?

A Yes, sir, I do.

Q How long have you known him?

A I'd say approximately 12 years.

Q Did you know his wife, Marilyn?

A Yes, I did.

Q Was she related --

A She is my first cousin.

Q She is related to you?

A Yes.

Q What was her relationship?

A My first cousin.

Q How does that relationship come about?

A Why, she's Tom Reese's daughter, who is my uncle. In other words, he is my mother's brother.

Q Mr. Reese is your mother's brother?

A Yes, that's right.

Q Did Marilyn ever live at your home?

A Oh, she may have stayed there, but I don't recall any -- there was no period that she stayed there at my home, no.

Q Were you on sociable and friendly terms with Sam and Marilyn during Marilyn's life?

A I felt so, yes, quite, quite sociable terms.

Q And did you have occasion to call at their home?

A Yes, on occasion we did, sociably.

Q And did they call at your home?

A Yes, they did.

Q When was the last time before July the 4th of this year that you were at Sam and Marilyn's home?

4818

Chip
getting
hit in
the face

5215

A I would say August of 1953. I am very sure of that because my wife's sister was here visiting, and Marilyn had a party or supper more or less in her honor.

Q Do you know when they moved into the home in Bay Village?

A Well, they returned here, to my knowledge, in June, '51, and moved into the home that summer. I don't know exactly when, sir, no.

Q Are you married, sir?

A Yes, sir, I am.

Q Do you have a family?

A Yes. I have one son.

Q And what is the age of your son?

A He is three and a half years old.

Q And you knew Chip, of course?

A Oh, yes.

Q At any time that you visited Sam and Marilyn at their home, did you ever see any unusual occurrence in which Chip was involved?

A Yes, I did, on one occasion.

Q And when was that, sir?

A To the best of my knowledge, that was on a Sunday in the latter part of March, 1952. I'm sure of the year, and I am very -- reasonably sure of the month.

Q And where was it that this unusual occurrence took place?

A It occurred in the living room of their home.

Q And who was present at that time?

A Just myself and Sam and Chip, and my son was running around the room, also.

Q Was Marilyn at home?

A She was in the kitchen with my wife preparing supper at the time.

Q And will you relate to us what took place at that time?

MR. CORRIGAN: Object. Too remote.

THE COURT: Well, he may say
what took place.

A Well, we spent the afternoon. As I said, my wife went with Marilyn into the kitchen to prepare supper, and we were watching television -- I say "we," I mean Sam, myself and Chip -- and on the program was a cowboy and Indian picture, and Chip was rather freely playing around the room, more or less like he was playing a part of an Indian, and I happened to see, as he passed Sam's chair, Sam's one arm, his left arm was hanging over the chair, and Chip rather playfully slapped it.

With that, Sam drew him up over his legs -- threw him over his legs and proceeded to give him what I would -- what I say was an unmerciful beating.

MR. GARMONE: Object and ask that
it be stricken and the jury be instructed to

disregard it.

THE COURT: Yes. The latter
part of the answer the jury may disregard.

He may say what he did.

Q Will you describe what you saw him do?

A He beat Chip.

Q Well, tell us the manner in which he did it.

A Well, he became in a rage, he seemed to go suddenly into
a rage, became very red in the face, and landed a number
of blows. Chip immediately began screaming and crying,
and I was so shocked, actually --

MR. GARMONE: Object and ask
that that answer be stricken and the jury be
instructed to disregard it.

THE COURT: He is at the point
where you left, you say?

MR. MAHON: No. He said he was
shocked.

MR. GARMONE: We ask that it be
stricken and the jury instructed to disregard it.
Let the witness tell what he saw, not his own
conclusions and his reaction.

THE COURT: I am not sure.
All right. The jury will disregard that statement.

Q Never mind telling us about your shock. Tell us what you saw happen.

THE COURT:

What you saw.

A Well, he landed repeatedly a number of blows, and at the time, he began yelling himself, that is, Sam, and he yelled very loudly, "Don't do that. Don't ever do that. Don't hit me again."

And, as I said before, Chip was screaming and crying, and that's all that I saw.

Q What, if anything, did you do?

A I stood to my feet with the feeling I wanted to stop it.

Q Not what your feelings were. What did you do?

A I rose to my feet.

Q And did you stand there and watch that?

A For an instant, and I said, "For God's sake, Sam, take it easy."

Q Did he say anything?

A No. He didn't seem to hear me and went right on striking his son.

Q How long did this go on?

A Well, it is hard to say in the matter of time. I walked past them, then, into the kitchen, and the commotion was still going on as I passed, I know, and if you would class it as a matter of time, I would say -- I'd probably

have to say approximately two and a half minutes in time.

Q Did you leave the room?

A Yes, I did, sir.

Q Was this going on when you left the room?

A Yes, it was. In fact, I could still hear it. I could still hear some blows being landed, and I could hear yelling going on. As I walked in the kitchen, I could hear Sam yell and order Chip to go upstairs without any supper.

Q And when you left the room, where did you go?

A I went into the kitchen.

Q And who was in the kitchen?

A My wife and Marilyn.

Q And what happened following that?

A Well, if I would be permitted to -- I turned to my cousin and made a remark. After that, we went into the living room to eat.

Q And was Chip there to eat?

A No. He was -- he never came down, never made an appearance. As I sat in the chair with my plate, I happened to see that he did peek around the top of the stairs and Marilyn seemed quite upset and wanted him to eat.

MR. CORRIGAN:

Object to that.

MR. GARMONE:

Object to all this.

THE COURT:

Yes. Objection will

be sustained.

A So she took a plate --

THE COURT:

Wait a minute.

You just say what you saw.

THE WITNESS: Yes, sir.

THE COURT: All right.

A She went and got a plate and tried to coax Chip. She went up I'd say three or four stairs and tried to coax him quietly to come down. So she took the plate and left it on the landing between the living room and the kitchen and we proceeded to finish our supper.

Q What time of the day was that?

A Oh, somewhere around six o'clock when they prepared supper.

Q Now, after you completed your meal, did you see Chip anymore?

A No, sir, I never saw him again that evening.

Q And how long did you remain there?

A I believe due to the unpleasantness we left about an hour after eating.

Q And what was Sam's attitude after this occurrence?

MR. CORRIGAN: Object to that question.

A He seemed --

MR. CORRIGAN: I object to that question.

THE COURT: Yes. The objection will be sustained.

Q Well, will you describe his mannerisms after this occasion?

MR. CORRIGAN: When?

MR. GARMONE:

After the occasion.

MR. MAHON:

The same night after

this episode, when the child was beaten.

A

I never engaged in conversation with him the rest of the evening, and he seemed to be quite sullen. And as we left -- I don't recall having any interchange of any kind with him the rest of the evening while we were there. He, to my knowledge, sort of slumped in the chair and seemed not any too eager for conversation and sullen.

MR. MAHON:

You may inquire.

CROSS-EXAMINATION OF THOMAS WEIGLE

By Mr. Garmone:

Q

This incident you have related happened sometime in 1952, is that right?

A

That's right, sir.

Q

Was it on a Sunday?

A

Yes, it was, sir.

Q

How old are you, Mr. Weigle?

A

Twenty-six years old.

Q

Are you married?

A

Yes, I am.

Q

Do you have a little -- do you have a child?

A

Yes.

Q

How old is your child?

A He is three and a half years old.

Q Now, about what time did you arrive there on the Sunday of 1952 that you testified to relating this incident?

A We arrived approximately 4 o'clock in the afternoon.

Q And about what time would you say this incident took place between Sam and Chip?

A Approximately six o'clock.

Q That would be about two hours after you had been there, is that right?

A That's right.

Q Now, they were watching a cowboy and indian picture at the time?

A That's right, sir.

Q What was your boy doing, if anything?

A Just running around. I don't recall anything he was doing except playing around in front of the television.

Q Now, how long was it before the incident that you have described to this jury that Mrs. Weigle, your wife, and Mrs. Sheppard left the living room and went into the kitchen?

A Not very long, sir. I'd say approximately 10 to 15 minutes.

Q And prior to that time, hadn't Marilyn reprimanded Chip?

A Not to my knowledge, to any degree.

Q Not to your knowledge. Was Chip sort of showing off a little?

A Oh, he wasn't unduly boisterous. He may have been possibly carried away slightly with the program.

Q And all Sam did was, after he had been asked by Marilyn to quiet Chip down, give him a couple of slaps on the buttocks and Chip went upstairs because his pride was hurt, wasn't that what happened there that day?

A No, sir, that is not what happened there that day.

Q That is not what happened. Now, you say you are 26 years old?

A Yes, I am.

Q And you lived a good portion of your life with your mother and your dad, is that right?

A A goodly portion, yes.

Q Can you remember sometime during the period when you were somewhere between 5 and 7 years old, whether your dad ever took you over your knee and laid a couple hands to your rear end?

A Oh, I was certainly reprimanded, but he didn't have to kill me to do it.

MR. GARMONE: I will ask that the latter part of the answer be stricken and the jury be instructed to disregard it.

THE COURT: Yes. The jury will disregard the latter part of the answer only.

Q The casual spanking of a youngster is nothing unusual in any household where there is children, is it?

A Occasional reprimanding, no.

Q You can answer that yes or no, please.

A Well, I certainly think --

Q Will you answer --

MR. GARMONE: I will ask the

Court that the question be answered yes or no.

A Well, yes, a casual spanking, certainly.

Q Nothing unusual about that, is there?

A No.

MR. DANACEAU: He has answered

the question. Just a minute.

THE COURT: The answer is no.

MR. GARMONE: That is all. Thank you.

REDIRECT EXAMINATION OF THOMAS WEIGLE

By Mr. Mahon:

Q Was this a casual spanking that you saw Chip receive that day?

A No, sir. That's what I am trying to bring out, that this was not a casual spanking.

MR. CORRIGAN: I object to the

repetition. He has told what he has to say

about it.

MR. GARMONE: He has answered
the question.

THE COURT: He wanted to explain,
but, of course, he had to answer yes or no. All
right. Is that all you have?

MR. MAHON: That is all.

THE COURT: Thank you, sir.

(Witness excused.)

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