

(Thereupon proceedings were resumed in the presence of the jury panel, as follows):

(Thereupon the jury was sworn by the Court.) ✓

(Thereupon the empaneling of alternate jurors commenced, as follows):

Thereupon JOSEPH. A. KACZMAREK, being first duly sworn, was examined and testified as follows:

EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By the Court:

Q Is your name Joseph A. Kaczmarek?

A Yes, your Honor.

Q Is that how you pronounce it?

A Kaczmarek.

Q And you live at 3855 East 50th Street?

A That's right.

Q That would be Newburgh Heights?

A Newburgh Heights.

Q And are you a married man, Mr. Kaczmarek?

A No, your Honor. I am single.

Q You are a single man?

A That's right.

Q Will you tell us who you live with?

A I live with my parents at the same address.

Q And how many people are there in your household?

A Three.

Q Just the three of you ?

A Yes.

Q Your father and your mother and yourself?

A Yes, sir.

Q What is your father's name, please?

A His name is Joseph.

Q What is his occupation or trade?

A He is a barber.

Q Where is his place of business?

A The address?

Q Yes, roughly where?

A It is on 6303 Fleet Avenue.

Q What is your occupation, please?

A I am a letter carrier.

Q For the United States Government, I take it?

A Yes, your Honor.

Q How long have you been a letter carrier?

A Since -- well, I have been in the service since 1939 as a regular employee, and as a mail carrier -- as a letter carrier, I have been carrying since 1946 but I have been in service -- I made a transfer from clerk to --

Q In some branch of the service since 1939?

A Within the post office.

Q Where do you carry, roughly, just the outline?

A I deliver mail between the streets Quincy and Central and between the streets East 64th to 76th.

Q That is the area?

A That is the area.

Q Have you ever served as a juror before in any court?

A No, your Honor.

Q Have you ever been a witness in any case in any court?

A No, your Honor.

Q I take it that you were here a week ago last Monday morning and you heard these good people around the table here presented to you. Do you know any of them?

A I do not.

Q And do you know the County Prosecutor of this County or any member of his staff?

A I do not know him personally, nor any of his staff.

Q Do you know the Sheriff or any member of his staff?

A No, your Honor.

Q Or the Coroner, Dr. Gerber, or any member of his staff?

A No, your Honor.

Q When I speak of your family, now, if I may, I would like to refer to your father's people and to your mother's people. Have you any brothers or sisters?

A I have two brothers.

Q All right. I am referring to them, also, and their families, and while we are at it, what do your brothers do?

A My brother Edward is assistant supervisor with the Star Bakery, Star Service.

Q Assistant supervisor at the Star Baking Company?

A Yes.

Q The other brother, now.

A My youngest brother, Jerome, is with the Cleveland Pneumatic Tool Company.

Q What does he do there?

A He is a machinist.

Q Are there any members of your people, family, who are members of a police department or any law-enforcing agency, if you know?

A No, your Honor.

Q Have you or any of your people, if you know, ever had violence visited upon you or on others in your family at any time?

A Never, not that I know of.

Q I take it that you have heard of the Sheppard case before? ✓

A I have, your Honor.

Q By what means have you heard of it, generally? ✓

A Generally, by radio and newspapers. ✓

124 Q And you have discussed it with your fellow-employees, or with others? ✓

A I have discussed it insofar as the questions were directed to me. I have never paid too much attention to it, that is, personally.

Q Let me ask you a general question, then:

As a result of what you heard, what you have read, or any discussions that you had, have you formed any opinion at all as to the guilt or innocence of Sam Sheppard?

A I have not.

Q Have you ever expressed any opinion to anyone?

A I reserved my opinion in that respect. I never -- never.

Q Do you now have an opinion as to his guilt or innocence?

A I do not.

Q I will ask you if, in a proper case, you have any objection to capital punishment?

MR. CORRIGAN: Object.

THE COURT: Overruled.

Q You may answer that. Do you have any objection in a proper case to capital punishment?

A I have no objection.

Q Do you understand that a person, even though he be here charged with a crime, no matter whether that crime be petty or very serious, that he is presumed to be innocent, even though he be indicted by the Grand Jury and be here on trial? Do you understand that?

A Very thoroughly.

Q And that he is to continue to be presumed to be innocent until the State has proved him guilty by evidence which convinces you of that guilt beyond a reasonable doubt, do you understand that?

A I understand that.

Q Do you understand, too, that it is the function of the jury, and the jury only, without interference from anyone, to make up their minds as to whether a man is guilty and to do so on the basis of evidence that comes from that witness stand where you now sit and the instructions of the Court as to the law? Do you understand that?

A I understand that.

Q And do you understand, also, that when evidence is produced by a witness, you are not at the outset to consider the station in life, the position, official or otherwise, of that person, or anything whatever in connection with them at the outset, but you are to weigh the testimony carefully for one purpose, and one purpose only: To determine what the truth is and what is not true? You understand that?

A I understand that, your Honor.

Q Have you since the 4th day of July of this year received any communication of any kind from anybody that could be directed or have some reference to the Sheppard case?

A I have. I have received that one letter in question, which was the -- was mentioned in the newspapers.

Q Have you got it with you?

A No, your Honor.

Q When did you receive it?

A I think the same time everyone else did. The day previous to the announcement in the paper. ✓

Q The day previous to the announcement in the paper about them having been sent out?

A Yes.

Q Now, I will show you the Court's Exhibit A-9 and A-10, and I will ask you to look at those and take a moment to do it carefully, and see if those are similar, the same as those that you received?

A Yes, your Honor, they are similar, the same.

Q They are the same thing. Do you know who sent you those?

A No, your Honor.

Q Well, you are a mailman, you ought to know who sent you that.

A When it comes to receiving mail, I am the same--

Q You have no idea who sent it?

A No, your Honor.

Q Have you entertained any idea at all that the Sheppard family or any of their friends had anything to do with it?

A No, never.

Q Now, the Court will say to you that we know who did send it, and the Sheppard family, their friends, had absolutely nothing to do with it. As a result of having received that

communication, or whatever you care to call it, would you be affected at all and would your judgment be affected by it?

A I haven't read the letter in its entirety, either one or the other page, either one or the second page. I would not be affected by its contents. I did not--I threw the letter out. That's exactly what I did.

Q You are to understand that counsel for the State on my left at the trial table, and counsel for the defense at the right, at our right of the trial table, are asking one thing and one only, and they are entitled to that, and that is an absolutely fair and impartial jury. Do you believe that you could sit here and listen patiently to the evidence and weigh it under the standards, which you have said you understand, which the Court stated and listen to the instructions of the Court as to the law and close out the rest of the world, everything that you heard or read about this matter, and decide this case entirely on what you hear here as evidence and as instructions as to the law? ✓

35 A Yes, your Honor.

Q All right. That is Mr. Danaceau, the assistant County prosecuting attorney. He would like to put a few questions to you.



## EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By Mr. Danaceau:

Q You have two brothers, Edward and Jerome?

A Yes, sir.

Q They do not live with you. I take it they are both married?

A They are married.

Q Where does Edward live?

A 7918 Force Avenue, and Jerome lives in the same home.

One lives up and one lives down.

Q It is a two-family house?

A It is a two-family house.

Q Now, you have also stated that you deliver mail in a certain area. How long have you delivered mail in that area?

A Since '50 -- it's two or three years.

Q Where did you deliver mail before you were in that area?

A I delivered in the downtown section.

Q And how long did you deliver in the downtown section?

A About a year and a half, to two years. There's a time lapse there when I went to school.

Q What school was that?

A I went to St. Mary's College in Michigan for one year and St. Joseph's College in Indiana for the next year. That would be '48 and '50.

Q Is that a straight arts course?

A Well, at that time I was thinking about doing mission work,

and I did not know at my age whether I would be able to go into that kind of work, but I tried this John Carroll University, and through a friend I was introduced to St. Mary's College, and I tried -- with the idea of being a missionary for two years, and after two years I quit the school. I couldn't go through with it.

Q Now, Mr. Kaczmarek, you understand, of course, that this is a case involving first degree murder?

A Yes, sir.

Q And that in this case, and in all other cases like it, before a person comes to trial there must first be an indictment, that is, a presentment, an indictment by a Grand Jury. Do you understand that, sir?

A I understand that.

Q Now, an indictment by a Grand Jury comes after the Grand Jury in this case, and in all other felony cases, hears the evidence, and in this case, and in all other cases, they hear only one side, that is the evidence that is presented through either the prosecuting attorney or through any members of the Grand Jury. They have a right, also, to ask any witness to be subpoenaed, and in this particular case, neither the defendant nor any person that he may have wanted to testify, came before the Grand Jury. Do you understand that, sir?

A I understand that.

Q That is what we lawyers call an ex-parte hearing. That is a hearing on one side.

Now, under our Constitution every person is entitled to a fair trial before an impartial jury and a fair Judge in open court. Do you understand that, sir?

A I understand that.

Q And he is to be tried upon what is presented in court and nothing else. Do you understand that, sir?

A Yes.

Q That is our American way of life, and others may have other ideas, but certainly you don't have any such ideas?

A I certainly don't.

Q Now, under our Ohio Constitution, before a person can be brought to court and charged with an offense, such as this, or any felony, there must be first an indictment, but that indictment is only a charge. It is not evidence. It is just a charge and nothing else. You understand that, sir?

A I understand that clearly.

Q And that notwithstanding the fact that the Grand Jury has presented this indictment, that the defendant, Sam Sheppard, is presumed to be innocent, and that presumption remains with them until such time as there is presented in this court evidence that will convince the jury of his guilt beyond a reasonable doubt. Do you understand that, sir?

A I understand that.

Q And you, of course, believe in that, do you not?

A I certainly do.

Q And you will carry it out?

A Yes, sir.

Q Now, the evidence will come to you from witnesses from that witness chair, and all of that evidence will have to be judged by the jury.

A Yes, sir.

Q Questions of law may arise during the proceedings, and legal principles will have to be applied to the evidence, and those questions of law will be decided by Judge Blythin, and those legal principles will be given to the jury by Judge Blythin at the proper time.

A Yes, sir.

Q And no matter what my personal views may be as to the law or your personal views may be as to the law, all of us in this courtroom must take the law as Judge Blythin gives it to us and to you. Do you understand that, sir?

A I understand that.

Q And will you accept the law as Judge Blythin gives it to you and disregard any other notions which you may or may not have?

A I will.

Q Now, the jury is the trier of the facts and have the sole responsibility to determine what the facts are. Their task is a search for the truth, and in order to make a proper

decision, arrive at a proper verdict, they have to analyze the evidence that is presented in court through witnesses. You will have to decide which witnesses to believe and which not to believe. Do you understand that, sir?

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A I understand that.

Q A jury may believe all that a witness testifies to, or it may disbelieve all that a witness testifies to. It may believe part of what a witness testifies to and disbelieve the balance. Do you understand that, sir?

A I understand that.

Q Now, in order to decide what weight or credibility to give to the testimony of each witness, the jury will be instructed that they may apply certain guides or rules, certain standards, and they must apply all of those rules or guides or standards, or whatever you may call it, to all of the witnesses equally, use the same yardstick with respect to all the witnesses. Are you prepared to do that?

A Yes.

Q Some of the witnesses may be professional people, some laymen, some who will hold public office, some police officers, you are to treat them all alike and apply the same standards to all. Do you understand that, sir?

A Yes.

Q And you are not to believe a professional man or a police officer or a layman, all other things being equal, merely

because he is a professional man or a policeman or a layman.  
Do you understand that, sir?

A Yes, sir.

Q Now, these guides or rules that I have referred to, will be explained to you by the Court. I will refer to a few of them in order to illustrate what I am talking about.

When a witness takes the witness stand and testifies, a very pertinent and proper question is: Did he have opportunity to know the facts to which he testified? If he had such an opportunity he is in a position to tell about it. If he didn't have the opportunity, he is not in a position to tell about it. That is one of the rules that will govern.

Do you understand that, sir?

A Yes, sir.

Q Another rule is: Is the particular witness interested in the outcome of the case? Has he an interest on one side or the other that would cause him to favor one side or the other? And if a witness has an interest of that sort, that he would want to favor one side or the other, and you have a right to take that into consideration as to how much weight and credibility you give to that witness. Do you understand that, sir?

A Yes, sir.

Q And you will apply that rule?

A Yes, sir.

Q Another standard that you may apply is the reasonableness of the story that the witness tells, or, on the contrary, its unreasonableness, the probability of his story or its improbability. You may take those things into consideration when you judge the witness as to the weight and credibility you are to give to his testimony. You are prepared to do that, sir?

A Yes, sir.

Q And similarly, you may apply to all of the witnesses all of your own experiences in life in order for you to ascertain, to find out, to determine what the truth is in this case. You are prepared to do that, sir?

A I am.

Q There are, generally speaking, two types of evidence: Direct evidence and circumstantial evidence. You are familiar with those terms, are you not?

A Yes, sir.

Q And under our law, both types of evidence are admissible and may be considered by the jury. The Court will so tell you. The Court will also tell you what guides you are to use with respect to direct and circumstantial evidence, and you are prepared to follow the Court's instructions, are you not?

A I am.

Q Now, I believe you mentioned that you had heard something

about this case. What did you mean by that?

A At work there was always conversation.

Q Conversation of other people?

A Of other people around me, surrounding me. We work close together, one next to one another.

Q Well, did you ever personally express any opinion one way or the other about this case?

A No, I did not.- I always said that I don't want to discuss a case which is not finally judged by the proper authority or the proper jury, and so forth. I cannot give an opinion on something which is not clearly defined.

Q In other words, you are one of those citizens who believes that a case should be tried in court?

A I do.

Q And decided on the basis of the evidence in court and upon the basis of the law that the Judge will give you and on nothing else?

A I certainly do.

Q Well, that is right, sir. And you will decide the case solely on the basis of the evidence, the testimony you get from the witnesses and on nothing else, is that right?

A Yes, sir.

Q The Court will tell you that what the lawyers say either now or during the proceedings or when they are talking to the jury is not evidence in the case. You understand that,



sir?

A Yes, sir.

Q And so you will pay no attention to any newspaper articles that may have occurred and you may have seen, you will pay no attention to that, is that right?

A That's right.

Q You will pay no attention to any discussions that might have been had in your presence, is that right?

137 A Yes, sir.

Q You will pay no attention to the talking that goes on here that does not come from the witnesses from the witness stand, is that right?

A Yes, sir.

Q And you will not regard as evidence anything that the lawyers may say during the course of the proceedings, whether it is now, during the proceedings, or in talking to the jury, is that right?

A That's right.

Q You will be guided solely by the testimony of the witnesses, by the law given by Judge Blythin, and nothing else, is that right?

A Yes, sir.

Q You realize, of course, the seriousness of this type of a case where a person is charged with first degree murder, do you not?

A I do.

Q You realize, of course, that upon proper proof, the death penalty may be imposed if the jury finds this defendant guilty?

A I do.

Q And you realize it is a very important matter, important to the defendant, his lawyers, the lawyers here representing the State, and the jury, it is important to all, and it is important to the State of Ohio?

A Yes, sir.

Q Are you prepared, sir, to assume that responsibility?

A Yes, sir.

Q And to decide this case solely upon the basis of the evidence and the law, sir?

A I am.

Q And without any bias or prejudice one way or the other?

A I am.

Q And without any sympathy for the defendant, his family, or anyone else?

A I am.

MR. DANACEAU: Pass for cause.

THE COURT: This is Mr. Garmone of counsel for the defense. He would like to put a few questions.

## EXAMINATION OF PROS. JUROR JOSEPH A. KACZMAREK

By Mr. Garmone:

Q Mr. Kaczmarek, you are being examined at this time to determine your qualifications to sit as an alternate juror in this matter.

Now, because of the fact that you will --

THE COURT: Mr. Garmone, perhaps I will or you may explain to him what is meant by an alternate juror.

MR. GARMONE: Would you want to do that, Judge?

THE COURT: Yes.

We have here twelve jurors and that constitutes what we usually refer to as a legal jury in this State. This case may take some little time to try, and we never know what happens to human beings, so one may have something very serious happen in the family or somehow or other and be crippled during the progress of the trial, so we empanel one or two additional jurors, who, if anything happens to one of the regular jurors, will take the place of that juror. The alternate juror sits here just as do the other jurors and listens to all of the evidence so that he will be in

the same position as all the other jurors are if he should be called upon to render the service.

MR. GARMONE: Thank you, your Honor.

PROS. JUROR KACZMAREK: Thank you.

By Mr. Garmone:

Q You won't, because of the fact that if you are chosen as an alternate juror, lose any interest in the facts that will be testified to in this case, will you, Mr. Kaczmarek?

A No, sir.

Q You will give them the same careful attention as though you were sitting within the jury box with one of the other twelve ladies and gentlemen?

A Yes, sir.

Q You will treat your responsibility with the same degree that these other ladies and gentlemen will, is that right?

A Yes.

Q Now, there have been many questions asked of you, whether you feel you can be fair and impartial. As Sam Sheppard sits here at the trial table, do you now presume him to be innocent?

A Yes, sir.

Q And will you, if you are instructed by the Court, continue to give him that presumption of innocence until such time that the State convinces you beyond a reasonable doubt of

his guilt?

A Yes, sir.

Q As Mr. Danaceau stated, the charge set out in the indictment constitutes first degree murder. The mere mention of first degree murder gives it a serious atmosphere.

Now, does the fact that the Grand Jury of this County returned an indictment against Sam Sheppard raise any presumption in your mind as to his guilt?

A No, sir.

Q The burden of proof necessary to convince you beyond a reasonable doubt of this young man's guilt is incumbent upon the State of Ohio; that is their responsibility and their obligation in this case, Mr. Mahon, Mr. Danaceau, Mr. Parrino. That burden never changes or switches or shifts from their side of the table to the side of the table that Sam Sheppard sits on.

Now, Judge Blythin will tell you that that is the rule of law that you are to follow. Will you subscribe to that rule?

A Yes, sir.

Q Now, on the element of proof or the degree of proof, the Court in his charge will define to you what beyond reasonable doubt is. Will you accept his definition?

A I will.

Q And take only his definition on that particular subject

and not incorporate any ideas that you may have regarding it?

A I will.

Q An indictment that charges first degree murder, Mr. Kaczmarek, sets out that a person unlawfully, purposely and of deliberate, premeditated malice killed another. His Honor will say to you as a matter of law that before you can be convinced beyond a reasonable doubt of this young man's guilt consistent with the language alleged in the indictment, that it is incumbent upon the State of Ohio to prove beyond a reasonable doubt each one of those elements or those things that are set out in the indictment. Do you follow me?

A Yes, sir.

Q And should the State fail to convince you beyond a reasonable doubt or supplying to you testimony sufficient to convince you beyond a reasonable doubt as to each and every essential element set out in the indictment, would you hesitate in returning a verdict of not guilty?

A I would not hesitate.

Q The Court will say to you, also, Mr. Kaczmarek, that it is not, only necessary for the State of Ohio to prove one or two or three of those allegations, but they must prove them all, and unless they prove them all, then you, as a juror, would be obligated to return a verdict of not guilty. Do you subscribe to that theory of law?

A I do.

Q Mr. Danaceau covered thoroughly the question of facts, and when we talk about facts we talk about statements or testimony that you will hear from witnesses in this courtroom, and you will be guided only by the statements that you hear in this courtroom, will you not, in the determination of this matter?

A Yes, sir.

Q You won't permit any outside influence to creep into your mind or become part of the picture that you hear in the courtroom, will you, Mr. Kaczmarek?

A I will not.

Q You are the sole judge of the facts. That is an authority granted you under the law. The Court can't interfere with it, I can't, the gentlemen on this side of the table cannot interfere with it. You have a right to listen to these facts, weigh them with the yardstick that you choose to weigh them with, and determine in your mind whether they are sufficient to convince you beyond a reasonable doubt of this young man's guilt.

Should you, after hearing all these facts, and you apply your yardstick to them, be convinced that the State has failed to make a case against Sam Sheppard, would you hesitate in joining with your fellow-jurors in returning a verdict of not guilty?

A I would not hesitate.

Q You did say just a few minutes ago in response to one of Mr. Danaceau's questions about never having expressed an opinion because you felt that a man is entitled to a fair hearing before judgment, is that right?

A That's right.

Q However, have there been some opinions expressed to you by your fellow-workers about Sam Sheppard? ✓

A I think there was a mixture of all sorts of -- I couldn't--

Q I wouldn't want to know --

A I couldn't tell what the details are, but there were ✓  
opinions.

Q There were opinions expressed. You don't need to tell me what they were because I am not entitled to know, and I ✓  
don't want to know.

Well, do you think that those opinions that were  
expressed to you by people that you have worked with for ✓  
sometime would have any influence in your judgment in this  
case?

A No, sir.

Q You did say that although you did not express an opinion,  
that you had reserved an opinion.

A In that respect that I would not - I would not accuse anyone  
of anything unless I knew all the facts.

Q All the facts?



A Yes.

Q So it was for that reason that you made no expression of opinion, you didn't know all the facts, is that right?

A That is true.

Q Now, where is your brother employed, Mr. Kaczmarek, your brother Edward?

A At the Star Baking Company.

Q And Jerome is at the Cleveland Pneumatic Tool Company?

A Yes, sir.

Q And do they live at home with you?

A No, sir.

Q Are they married?

A They are.

Q And do you know what, if any, employment or employment their wives may have? Edward's wife, is she employed?

A She is not, nor is Jerome's.

Q Is Jerome's wife employed?

A No, she is not.

Q Do they have grown children?

A No. My brother Ed's family, they are childless, and Jerome has a young 17-month-old boy.

Q He is just a baby yet, is that right?

A Just a baby.

Q Now, do you know anybody that is connected with the police department of the City of Cleveland?

A No, sir.

Q This is Sergeant Lockwood here. He is a member of the police department. Had you ever seen him prior to coming in here a week ago Monday?

A No, sir.

Q That was the first time that you had ever been introduced to Mr. Lockwood, is that correct?

A Yes, sir, unless the gentleman was here when we were sworn in that first day.

Q He was here during the period that you were sworn in.

A That was the first time.

Q And Inspector McArthur, who is not present in the courtroom now, he was here when you were all sworn in.

A I remember the name.

Q Do you know him?

A No, sir. That was the first time I heard the name.

Q First time you had ever seen him?

A Yes, sir.

Q Do you know anybody that is connected with the Coroner's office?

A No, sir.

Q Dr. Gerber?

A No, sir.

Q Dr. Adelson?

A No, sir.

Q Dr. Sunshine or Dr. Chamberlain?

A No, sir.

Q Would you, because of the fact that a man is a police officer give his testimony greater weight than you would a layman?

A No, sir.

Q You would treat them both alike?

A Yes, sir.

Q Would you, because of the fact that a doctor is connected with the Coroner's office, be apt to give his testimony more consideration than you would a doctor who has no association with the Coroner's office?

A I would not.

Q Now, Mr. Kaczmarek, considering your work background and your educational background, you appreciate full-well the rule of fair play, don't you?

A I certainly do.

Q And you know that regardless of what people may write and what people may talk about on the radio and what you may accidentally view on television, are expressions or thoughts that shouldn't creep into a trial of this sort, if you are chosen as a juror, is that correct?

A I will not allow it to creep in.

139 Q That is not part of the fair play that you and I have a mutual understanding on, is it?

A Yes, sir.

Q Now, the only thing that Sam Sheppard is interested in is fair play, a fair trial, one that has no partiality, one where preconceived ideas don't creep into the picture that will be drawn by the facts that you will receive in this courtroom, and you are satisfied that you can treat Sam Sheppard in that manner, are you?

A Yes, sir.

Q Now, in some of the articles that you read in the paper, do you remember reading about a young lady identified as Susan Hayes?

A I do remember the name.

Q And in one of those articles there was attributed to Susan Hayes a statement that was widely publicized by the newspapers of our community that she at sometime or another had been intimate with Sam Sheppard. Do you recall that article?

A Yes, sir.

Q Now, having knowledge of that fact at this time would that cause you to have any ill-will or cause you to develop any prejudice against Sam Sheppard?

A No, sir.

Q You wouldn't permit the knowledge of that statement by with Susan to carry/you into the jury box any ill-feeling toward this young man, would you?

A No, sir.

Q Now, I could, Mr. Kaczmarek, ask you a good many more questions, but I think in the main between the Judge, Mr. Danaceau, and myself, we have covered the subject matter somewhat thoroughly.

I ask you now -- and your responsibility will be just as important and just as great as the responsibility of the other twelve people that are seated here, because, as Judge Blythin said to you, sometime during the course of a long trial maybe one of them will become ill and not be able to continue on in their performance as a juror in this case, and then it will become your obligation to take their place.

Now, having that in mind, and having in mind, if you are chosen as an alternate juror in this matter and later substituted into the jury box where the authority will be given you to judge the innocence or guilt of a fellow-citizen, and in addition thereto the authority to determine, after all the facts have been heard and all the law has been given to you by Judge Blythin applicable to those facts, whether there should be taken away the life of a fellow-citizen -- do you now know of any reason that we haven't developed by your examination that would disqualify you in accepting that responsibility and that obligation?

A I don't know of any reason.

Q You can take your seat as a member of this panel and give Sam Sheppard the same kind of fair play that you, yourself,

would want to receive if, by the Grace of God, he took his place in that jury box and was asked to judge you or some member of your family seated in this chair?

A Yes, sir.

MR. GARMONE: Thank you very much.

We pass, your Honor.

MR. PARRINO: I think, if the Court please, it is about time for a recess. May we have a recess at this time?

THE COURT: Let's dispose of this gentleman, if we can, now, if he is to be disposed of. If not, let's settle him, if we can.

MR. PARRINO: If the Court please, the State will excuse Mr. Kaczmarek at this time. ✓

THE COURT: Thank you very much, Mr. Kaczmarek; you will be excused, sir.

(Thereupon Prospective Juror Joseph A. Kaczmarek was excused.)

THE COURT: Ladies and gentlemen, we will have a few minutes' recess at this point.

Please do not discuss this case in the recess.

(Thereupon a recess was taken.)