

MR. CORRIGAN: If the Court please--

MR. DANACEAU: Now, if there is to be any argument of any kind --

MR. CORRIGAN: There isn't going to be any argument of any kind at all.

MR. DANACEAU: We are in the midst of presenting the State's case. I don't know what the occasion is. If Mr. Corrigan will advise us --

MR. CORRIGAN: Just hold your horses and listen.

THE COURT: I don't know what we have here.

MR. CORRIGAN: If you will just hold your horses and listen, you will find there will be no argument of any kind. You are always jumping up.

If the Court please, the stenographer has informed me that a number of exhibits that have been presented in court, that I have not formally offered them, and I want to formally offer all my exhibits.

MR. MAHON: Some of them we objected to. We would like to know what they are.

MR. CORRIGAN: All right. We will go over them one by one.

MR. MAHON: All right.

MR. GARMONE: Maybe we can save time. Do you have the ones you objected to?

MR. PARRINO: I think it will take some time to do that. There are a great number of them.

MR. DANACEAU: We can both go over our respective exhibits, without wasting time at this time, and check it.

MR. CORRIGAN: It won't take me very long.

MR. PARRINO: Do we need the jury now? This will take some time.

(Thereupon conference was had at the bench between Court and counsel, out of the hearing of the jury, after which the following proceedings were had within the hearing of the jury):

THE COURT: Ladies and gentlemen of the jury, we are going to go over these exhibits now and get them in order. We see no point whatever in having you remain here unless you would like to do so during that period.

So as far as you are concerned, we will
now be adjourned until 1:15 this afternoon.

In the meantime please do not discuss this
case.

(Thereupon the jury retired from the
courtroom.)

(Thereupon, in the absence of the jury,
the exhibits were discussed.)

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(Thereupon the following proceedings were had in the absence of the jury, following the discussion off the record concerning the exhibits):

THE COURT: Let the record show that B-1 and B-2, D, E, F, G, H, K, L, M, N, O, P, Q, R, S, T, U, V-1, V-2, W, W-1, X, Y, Z, AA, BB, CC, DD, EE, FF, GG are all received.

(Thereupon the above-named exhibits were offered and received in evidence.)

THE COURT: Let the record show that Defendant's Exhibits UU, VV, WW, XX and YY are received.

(Thereupon the above-named exhibits were offered and received in evidence.)

THE COURT: ZZ is an envelope and a bottle with wood in it.

MR. DANACEAU: It was offered and received, according to the reporters' notes here.

MR. CORRIGAN: That is received. Triple A has been received, BBB has been received.

THE COURT: CCC has not been received.

MR. CORRIGAN: What is CCC?

THE COURT: It is a photo of something. I haven't got what it is a photo of.

MR. DANACEAU: It is one of those that you didn't use. You picked out a certain number of them and you used some of them and others you didn't use.

MR. CORRIGAN: I will have to find out what it is before I know whether I want to introduce it or not.

CCC is a picture of part of the living room with spots on it. We offer that.

MR. DANACEAU: No objection.

MR. CORRIGAN: It was brought in by Mr. Dombrowski. We offer CCC.

THE COURT: All right. It will be received.

MR. CORRIGAN: Now we offer EEE.

THE COURT: DDD has already been received. EEE is a photo, also.

MR. CORRIGAN: That is a police photo, yes.

THE COURT: It will be received.

(Defendant's Exhibits CCC and EEE were offered and received in evidence.)

THE COURT: Let the record show that Defendant's Exhibits GGG, HHH, III, are received in evidence.

(Thereupon the above-named exhibits were offered and received in evidence.)

THE COURT: JJJ has already been received. KKK is a photo.

MR. DANACEAU: KKK is a photo of the bed. That is also the same as State's Exhibit 80. It has been received.

MR. CORRIGAN: All right.

THE COURT: LLL, MMM and NNN are received.

MR. DANACEAU: LLL is what we are concerned with.

THE COURT: I don't know what that is.

MR. CORRIGAN: LLL is a picture of the bed.

MR. DANACEAU: It has been received already as State's Exhibit 81.

MR. CORRIGAN: All right.

THE COURT: MMM and NNN have been received. 000 is also State's Exhibit 79. That is in evidence.

MR. CORRIGAN: PPP is State's Exhibit 78. That has been received. QQQ is State's Exhibit 77.

THE COURT: RRR and SSS have been received.

MR. CORRIGAN: Yes. We offer TTT.

MR. DANACEAU: That's all right.

(Thereupon Defendant's Exhibit TTT was offered and received in evidence.)

THE COURT: Everything else way down to date has been received.

MR. CORRIGAN: Everything else has been received.

MR. DANACEAU: Except the hospital record, YYYY.

MR. CORRIGAN: That's right. I guess everything is in now.

MR. DANACEAU: Since the reporter took down the defendant's exhibits, may I state again what I stated to the Court a moment ago, that we are offering in evidence State's Exhibit 43 and 44, 43 being the brown fragment and 44 being

the nail polish, and that we reoffer as a matter of precaution all exhibits, inclusive, all of which, the court reporter's record indicates, have been offered and ordered received by the Court.

THE COURT:

All right.

(Thereupon State's Exhibits 43 and 44, specifically, were offered and received in evidence, and all other State's Exhibits reoffered and received in evidence.)

THE COURT:

I think we are pretty well up to date on the exhibits, but it is still understood that if we have overlooked anything, at the close it can be corrected.

MR. DANACEAU:

We can go into it at any time.

THE COURT:

All right.

MR. CORRIGAN:

I offer Defendant's Exhibit A-1 to A-5.

THE COURT:

I would like to call your attention -- this is not for the record.

(Thereupon a discussion was had off the record concerning Defendant's Exhibit A-1 to A-5.)

MR. DANACEAU:

We have no objection to C-1 to C-9, so it may be received. It was offered

by the defense.

MR. CORRIGAN: We will withdraw those now, we will withdraw C-1 to C-9, and ask for the originals to be brought into court. And we will withdraw A-1 to A-5 because that would be the same thing, and we will ask the originals of those autopsy reports be brought to court and marked.

THE COURT: I would like them marked C-1 to C-9. You are withdrawing these, so that A-5 won't be mixing up the record, because we have already expunged it. If it gets in under C-1 to C-9, then it will substitute for this.

Will you leave this with me so that I can be sure I am getting the right records for you?

MR. CORRIGAN: Yes. This is what I first introduced, your Honor. I introduced A-1 to A-5. There is A-1 to A-5 that you have.

THE COURT: All right.

MR. CORRIGAN: Then there was a hassle about it, there were some marks on it, and they were supposed to bring in the original to court and it isn't here yet.

THE COURT: This isn't part of this.

MR. CORRIGAN: That's part of the autopsy. The whole thing is part of the autopsy.

THE COURT: But what is this?

MR. CORRIGAN: That is the Coroner's report.

THE COURT: It isn't a part of this.

MR. CORRIGAN: No, it isn't a part of that.

THE COURT: Well, is there anything wrong with that one?

MR. CORRIGAN: No.

THE COURT: What I need to get is an exact photostat of the original of this one that you have?

MR. CORRIGAN: Why can't we have the original and not be bothered about photostats in this matter?

THE COURT: You don't want to put the original into the record here.

MR. CORRIGAN: They are no good any more, anyway. This is the Marilyn Sheppard case.

MR. CORRIGAN: Let me see it.

THE COURT: This is merely A-5
that we have the quibble about.

MR. CORRIGAN: Let me see A-1 to
A-4.

Now, is it agreeable that A-1 to A-4
shall be received in evidence?

MR. CORRIGAN: Yes.

MR. DANACEAU: Yes.

MR. CORRIGAN: All right.

(Thereupon Defendant's
Exhibit A-1 to A-4,
being Coroner's report,
was received in evidence.)

THE COURT: Then all we have
in question is A-5?

MR. DANACEAU: Right.

THE COURT: All right. We will
get new ones for those.

MR. CORRIGAN: A-5 is the only one.

THE COURT: If you will give me
A-5, I will take care of that. That will straighten
it out, I think.

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(Thereupon at 12 o'clock noon an adjournment
was taken to 1:15 o'clock p.m., Wednesday, December
1, 1954, at which time the following proceedings
were had):

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Wednesday Afternoon Session, December 1, 1954.
(1:15 o'clock p.m.)

(Thereupon the following proceedings were had in the absence of the jury):

THE COURT: May I have one word?

Off the record, please.

(Thereupon discussion was had off the record.)

THE COURT: Another matter has occurred to the Court during the noon hour on the exhibits. No. 76, which is a photograph of a piece of tooth found under the bed of Marilyn Sheppard sometime after the death, objection was made to its introduction and the Court overruled it and permitted it, but no evidence has been offered by the State to connect that with anything of importance here. Counsel for the defense has used it, but the Court still would want to instruct the jury as to it, or withdraw it entirely, unless counsel for the defense withdraw the objection and leave it in.

The Court doesn't think it is particularly important one way or the other as it is now.

MR. CORRIGAN: I don't recall objecting

to it. Did I?

THE COURT: Yes. Mr. Garmone
objected to it.

MR. GARMONE: I objected to the
introduction of it.

I will withdraw the objection.

THE COURT: All right. It is
agreed by all parties that Exhibit 76 may stay
in the record for whatever value, if any, it has.
Frankly, I don't think it is important at all.

MR. MAHON: Well, if the Court
please, at this time the State has completed
its evidence, and the State is resting.

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THEREUPON THE STATE OF OHIO RESTED.

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MR. PETERSILGE: At this time, your
Honor, the defense wishes to make several motions,
and inasmuch as the reasoning back of those
motions will apply to all of the motions, I
should like to state all of the motions first
and then develop them.