

STATE'S EVIDENCE

THREUPON, the State of Ohio, to maintain the issues on its part to be maintained, called as a witness DON AHERN, who, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF DON AHERN

By Mr. Corrigan:

Q Will you state your full name, please?

A Don Ahern.

Q Where do you live, Mr. Ahern?

A Scottsdale, Arizona.

Q And how long have you lived in Scottsdale, Arizona?

A Since 1959.

Q Calling your attention to 1954, and particularly July 3rd, 1954, where did you live on that date?

A Lake Road.

Q At what address?

A 29146, I think.

Q Do you know or did you know in 1954 a man by the name of Doctor Sam Sheppard?

A Yes, I did.

Q Do you see that person in this courtroom?

A Yes.

Q Will you point him out, please?

A (Witness indicates.)

MR. CORRIGAN: Let the record show that he is the third man at the trial table, on the righthand side.

MR. BAILEY: I will stipulate that the witness has properly identified the defendant.

THE COURT: The record may so show.

Q Now, sir, on July 3rd, 1954, did you have occasion to see Sam H. Sheppard?

A Yes, I did.

Q Will you tell the Court and jury when and where you saw him first on that day?

A As I recall it was over at our house at about 6:00 in the evening.

Q Who was present at that time at your home?

A Mrs. Ahern, our two children, and with Sam was Marilyn and their son, Chip.

Q What did you do at your home at that time?

A We had a couple of cocktails.

Q Then did you subsequently leave your home and go elsewhere?

A Yes, we did.

Q And where did you go?

A We went to the Sheppard residence.

Q Who went there?

A The respective families.

Q The respective families were made up of whom?

A Mrs. Ahern, our two children, Marilyn, Sam, and their son Chip.

Q At what time approximately did you arrive at their home?

A About 8:00, I think.

Q Now, will you tell the Court, if you know, and the jury, whether or not this was by virtue of some pre-arrangement of some sort?

A I don't recall specifically. There was some thought, as I recall, that we might go to a movie later in the evening.

I don't recall if it was pre-arranged or not.

Q Was going to their home by virtue of some pre-arrangement?

A Apparently there was some pre-arrangement between Marilyn and my wife, because I recall Marilyn had a ham or something in the oven that was in the process of being cooked when she came up to our house.

Q I see. You arrived at their home at about what time?

A Around 8:00.

Q Now, did you and Sam Sheppard have occasion after

arriving there to go any place with relation to their home?

A Well, we went down to the beach, I recall.

Q Who was with you?

A Sam.

Q Will you tell the Court and jury what if any observations you made when you were down at the beach?

A Well, Sam was thinking about the possibility of water-skiing the following morning, and the water was a bit rough, and so we decided at that time it would be too rough for smooth skiing the following morning, if it pursued.

Now, do you have a recollection, sir, as to how much of a beach there was on that occasion?

A Gee, I don't know. Eight, ten feet, perhaps.

Q Do you recall the weather conditions generally that evening?

A Pleasant but a bit cool.

Q Now, after you returned from the beach with Doctor Sam Sheppard, then where did you go?

A Into the house.

Q Did you have occasion to go to any particular room or place in the house after you had returned?

A I think we went down to the basement.

Q Who went down to the basement?

A Sam, our two children, and Chip.

Q What if anything occurred while you were in the basement?

A Sam showed us how to punch the punching bag that he had erected down there some time before.

Q Will you describe for the Court and jury if you can recall what type of attire Sam Sheppard was wearing that evening?

A Oh, he had on some light slacks, I think light brown, maybe with a light brown stripe, a jacket, and T-shirt, and some brown sneakers, I think.

Q Do you recall the jacket?

A At this particular time?

Q Yes, sir.

A No, other than I think it was one that was different than he wore ultimately later on in the evening, I think a bit smaller, perhaps.

Q I see. Then will you tell us what transpired when you came up from the basement portion of that home?

A Shortly thereafter we ate.

Q At about what time was that?

A Oh, around 9:00, 9:30.

Q And where did you eat?

A The adults ate on the porch overlooking the lake,

and the children ate in the kitchen.

Q Will you tell us how you were dressed when you ate out on the porch?

A The only thing I recall it was a bit cool. I think both my wife got a jacket or something for me, and then Sam put on a jacket, I know.

Q Can you describe the jacket that Sam had on?

A Corduroy, brown corduroy jacket, brown or tan that he had for some time.

MR. CORRIGAN: Mark this.

(State's Exhibit 1 was marked for identification by the reporter.)

MR. BAILEY: We have no objection to the receipt of this jacket in evidence.

Q Sir, I hand you what for purposes of identification has been marked as State's Exhibit 1, and ask you to examine that and tell the Court and jury whether or not you can identify it?

A This appears to be the same jacket.

Q I see. Now, when you say the same jacket, the same jacket as what?

A The same jacket that he was wearing that evening.

Q I see. Now, will you tell the Court and jury, Mr. Ahern, as best you can recall, what you had for dinner

at the Sheppard home that evening?

A I can recall ham was number one, and a favorite of Sam's for dessert, some type of berry pie.

Q What time, if you recall, was dinner concluded?

A Around 10:00 or a little after.

Q After dinner was concluded then what did you do?

A I took our two children home.

Q After you took your two children home then what did you do?

A I returned to the Sheppards in a few minutes.

Q Tell us in your own words then what you and Sam Sheppard and his wife, Marilyn, and your wife, Nancy Ahern, did?

A We were all in the living room, and there was some flurrie type movie on TV, and the Cleveland Indians were playing a ball game.

Sam and I started out listening to the ball game, I think I did most of it, and as I recall Sam ultimately went to sleep on the couch during the ball game, and the girls continued to watch TV.

Q Prior to going into the living room and listening to the ball game and watching television, did anyone, if you know, clean up after the dinner?

A Yes, Marilyn and my wife.

Q What if anything was done, if you know, with regard

to the dishes out on the porch?

A I think they were all carried in.

Q What if anything was done with regard to the door leading out on to the porch, if you know?

A I have no exact knowledge.

Q I see. Now, you had indicated that Doctor Sam fell asleep on the couch?

A Yes.

Q Will you tell us as best you can where that couch is located or was located in that room?

A Well, it would be right next to where the steps lead up to the second floor.

Q Will you describe to the Court and jury how Doctor Sam lay on that couch?

A As I recall, he was lying on his stomach for a while. He was watching TV, I think, until he lost interest.

Q Will you describe how he was dressed?

A As I recall he was wearing this jacket, and the light colored slacks, T-shirt, and brown loafers.

Q Then, sir, did there come a time when you left the Sheppard household?

A Yes.

Q Approximately what time was that, as best you can recall?

A Somewhere between 12:15 and 12:30.

Q At the time that you left, where if you know was Doctor Sam Sheppard?

A He was still on the couch asleep.

Q Where was Marilyn Sheppard?

A Sitting in a chair. She and my wife had been sitting in chairs watching TV. So when we left she got up from the chair she was sitting in.

Q Did she see you to the door?

A Yes, she did.

Q Now, sir, if you know, will you tell the Court and jury what the conditions were respecting lights being on or off in that home at the time that you left?

A Lights were definitely on.

Q Now, you say the lights were definitely on. Will you more fully describe what lights you saw and where in that house?

A Well, there was still a light on in the living room, as we walked out.

There was one on in the kitchen, and there may have been one on in Sam's study, I'm not sure.

Q Did you have occasion, sir, to return to that home some time on the 4th of July, the morning of the 4th of July?

A Yes, we did.

Q When you say we did, who do you have reference to?

A Mrs. Ahern and myself.

Q Approximately what time was that?

A Perhaps 8:00.

Q After returning at that time where did you go in connection with the Sheppard residence?

A I recall my wife and I went down part way on the steps to the lake, and before we got all the way down we were stopped by, as I recall, someone connected with the Bay Village Police Department.

Q Did you have an opportunity to make observations of the lake at that time?

A Yes.

Q Will you tell the Court and jury what your observations were?

A Well, the water was still rough, but not quite as rough as it had been the previous evening.

Q You indicated that you and your wife had returned to the Sheppard household at about 8:00 in the morning, is that correct?

A About that, yes.

Q Will you tell the Court and jury what prompted you to return at that time in the morning?

A At about 6:00 --

MR. BAILEY:

I object to that.

THE COURT:

Overruled.

A At about 6:00 in the morning or perhaps a bit later we received a telephone call from Spen Houk, then the mayor of Bay Village.

Q If you can recall, what were the conditions with regard to warmth when you returned to the inner portion of the house, that is, you came in off the porch?

A Well, it was still a bit cool inside the house.

MR. CORRIGAN: You may inquire.

CROSS EXAMINATION OF DON AHERN

By Mr. Bailey:

Q Mr. Ahern, how long had you known the Sheppards before this visit?

A Would you repeat that, please?

Q Yes. How long had you known the Sheppards before July 4th, 1954?

A Somewhere about a year and a half.

Q You say late in the evening just prior to your departure you were listening to the ball game?

A Yes.

Q Between the Indians and the White Sox?

A I think so.

Q And the ladies were watching a movie on television?

A Yes.

Q The name of that movie was "Strange Holiday," was

it not?

A Yes, it was.

Q When you concluded your observations of television and listening to the radio, it was the holiday July 4th when you left, it was after midnight?

A Yes, correct.

Q Did you have occasion to observe the Sheppards, Doctor Sam and Marilyn, in the course of the evening, their conduct?

A Yes.

Q Is it fair to say that they were congenial and affectionate throughout the evening?

A Certainly congenial.

Q Did you see any disputes?

A No, no.

MR. BAILEY: That is all. Thank
you, Mr. Ahern.

THE COURT: Anything further,
counselor Corrigan?

MR. CORRIGAN: No further questions,
your Honor.

THE COURT: Thank you, Mr. Ahern;
you are excused.

May I see counselors, please?

(Thereupon counsel and the Court conferred at
the Court's bench out of the hearing of the jury.)