

THE BAILLIFF: Mrs. Vernon, if you will be kind enough to take the witness box, please.

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THEREUPON, JOSEPHINE R. VERNON, a member of the prospective jury panel, having been previously sworn, was examined and testified on voir dire, as follows:

THE COURT: Good morning, Mrs. Vernon.

MRS. VERNON: Good morning.

THE COURT: Just please relax and be at ease, and if you want to set your purse down alongside the witness chair there, fine. Is that too much on your back now?

MRS. VERNON: No, not yet.

THE COURT: All right. If it gets to be too cold for you, we can close that window.

Mrs. Vernon, you will remember that you are under oath in this matter. You were sworn and you are under oath. You understand that, do you not?

MRS. VERNON: Yes.

THE COURT: You will have to keep your voice up loudly enough so that each person in this room can hear you.

Mr. Romito who sits here must record everything that you say, so you cannot nod your head by way of response. You will have to speak audibly so that he and each of the rest of us in this room can hear you.

Would you do that, please?

MRS. VERNON: I will.

THE COURT: Thank you.

Counselor Corrigan?

VOIR DIRE EXAMINATION OF JOSEPHINE R. VERNON

By Mr. Corrigan:

Q Will you state your name, please, for the record?

A Josephine Vernon.

Q Is that V-e-r-n-o-n?

A Right.

Q Is that Miss or Mrs.?

A Mrs.

Q Where do you live, Mrs. Vernon?

A In Warrensville Heights.

Q What is your address?

A 19303 Harvard Road.

Q How long have you lived at that address?

A Seventeen years.

Q Do you have a family, Mrs. Vernon?

A Yes, I do.

Q How many children and what are their ages?

A Two children, a boy seventeen and a girl twelve.

Q Are you employed other than as a housewife?

A No, I am not.

Q What type of employment does Mr. Vernon have?

A He is a Regional Merchandise Manager for George M. Stevenson Company.

Q What type of business does the George M. Stevenson Company engage in?

A They are manufacturers and distributors of cupolas.

Q Manufacturers and distributors of what?

A Cupolas.

Q Of what?

A The little housing that goes on houses with weather-vanes.

Q Cupolas?

A Right.

Q Where is the George M. Stevenson Company located?

A It is in Cleveland, in the Industrial Parkway.

Q Is that on the West side off of Puritas Road?

A Yes.

Q How long has Mr. Vernon been so employed?

A One year.

Q What type of business was he engaged in prior to working for the George M. Stevenson Company?

A He worked for Sash and Door as a salesman.

Q What was the name of that company?

A Whitmoor Jackson, Iron City. They merged.

Q How long was he employed with that company?

A It is very complicated. He was with Whitmoor-Jackson for thirteen years, and Iron City, and then they merged.

Q If you will, Mrs. Vernon, if you will talk to the people in the back of the courtroom, then all of us will be able to hear you.

A It was a combination of about thirteen years.

Q You were living at your present address in 1954, is that correct?

A Yes, sir.

Q May I ask how long you have been married, Mrs. Vernon?

A Twenty-three years.

Q Calling your attention to 1954, at that time did you have occasion to read in the newspapers or magazines any matter relating to the Sheppard case?

A Yes, I did.

Q What newspapers did you have occasion to read the articles relating to this case?

A I believe at the time we took the Cleveland Press.

Q Did you follow the articles quite closely?

A I would say that I read probably a good portion of them.

Q Now, as a result of reading the articles in the paper, did you arrive at any conclusion or any opinion as to the guilt or the innocence of the defendant Sam Sheppard?

A No, I did not.

Q Did you have occasion to see anything on television or hear anything on radio in connection with this case?

A You mean in 1954?

Q Yes.

A Not regularly, I am sure, because I am not a regular listener. I would assume I did on television. I don't recall anything specifically.

Q Keep your voice up.

A Anything specific.

Q How about since 1954, have you had occasion to read anything in the newspaper or see anything on the television about this case?

A Yes.

Q Have you seen many items or articles?

A No, not as much as this time.

Q Those that you have seen, have you studied them and followed them quite closely?

A No, I have not.

Q As a result of what you have read recently, have you formulated an opinion, any fixed opinion?

A No, I have not.

Q Have you ever expressed, have you ever discussed this case with anyone?

A I think it was under discussion quite frequently.

Q Now, at the time you discussed it, did you give your viewpoints as to what you thought about it?

A As far as innocence or guilt, no.

Q Did you hear others express their views?

A Yes.

Q As a result of those expressions, did you formulate any opinion?

A No.

Q Did you discuss this at great length with any number of people?

A No, I would say not.

Q With reference to the last year, did you have occasion to discuss it with anyone during the course of the last year?

A I would say so.

Q With how many people?

A I couldn't say. I would say that it would be just a general conversation in a bridge group or something like that. I certainly heard of the discussion.

Q Do you know anybody associated with the Prosecuting Attorney's Office?

A No, I do not.

Q Or anybody associated with the defense of this case, the defendant Sam Sheppard, Mr. Russell Sherman, Mr. Lee Bailey?

A No, I do not.

Q Mrs. Vernon, if you are selected as a juror in this case, his Honor Judge Talty will instruct you that as a juror, it will be your function to determine and it will be the sole function of the jury to determine the facts of this case, and as far as the law is concerned, he will tell you what the law is, and all of us have an idea or concept of what the law is or what it should be.

If you have such an idea, will you be able to put that out of your mind and accept the law as Judge Talty shall tell you the law to be?

A Yes, I do.

Q There will be various witnesses that will appear, and it will be the function of the jury to listen to these witnesses and to evaluate them as to their believability,

and it will be their function to employ everyday common sense in determining whether to believe all or a part or none of the testimony of a particular witness; will you do that if Judge Talty instructs you that that is your function?

A To the best of my ability.

Q Judge Talty will also instruct you that the sole function of the jury in determining what the facts are, are for the purpose of arriving at a conclusion that the defendant is guilty or not guilty, and that any penalty, if there is any, or any punishment, is not to be the concern of the jury at all, if Judge Talty tells you that will you accept that instruction?

A Yes, I would.

Q Mrs. Vernon, have you or any member of your family ever been involved in a criminal matter as a victim or as a juror or as a witness?

A No.

Q Have you read any books dealing with the Sheppard case?

A No, I have not.

Q Do you know of any reason, Mrs. Vernon, if you are selected as a juror why you could not be fair and impartial to both the defendant Sam Sheppard and the State of Ohio?

A No, I do not.

Q May I ask what your maiden name was?

A Rife, R-i-f-e.

Q R-i-f-e?

A Yes.

Q Are you a native Clevelander?

A Yes, I am.

Q Generally, what vicinity of Greater Cleveland was the area in which you lived as a young lady?

A Shaker Heights.

Q As a younger lady, I should say.

A You were right the first time. Shaker Heights.

Q Did you attend school in the Shaker Heights School system?

A Yes, I went through the entire system.

Q You finished at Shaker Heights High School, I take it?

A Yes, I did.

Q What year was that?

A In 1941, I graduated.

Q Did you know Marilyn Sheppard, her maiden name was Marilyn Reese?

A No, I did not.

Q Did you know any member of the Sheppard family?

A No, I did not.

Q Did you ever have any connection or anything to do with the Bay View Hospital in Bay Village, Ohio?

A No, sir.

Q Mrs. Vernon, a police officer or other governmental official may testify in this matter, and the fact that such a witness would be a police officer or a governmental official, would that fact solely cause you to give greater believability to his testimony than somebody else's?

A I think it would.

Q So that just because a man is a policeman, or just because a man is a County Coroner of Cuyahoga County, that fact alone would cause you to believe him in preference to somebody else, is that correct?

A If he were testifying in an official capacity, I mean, just the fact that he was a policeman I don't think it would, but if he were testifying as a policeman, I think it would.

Q You think it would. If Judge Talty would instruct you that it was your function to give equal weight to the testimony of all individuals regardless of what their occupation is or what their capacity is, would you be able to follow that instruction?

A I believe I would.

Q Would you be able to follow that instruction despite the fact that you indicated to me a moment ago that just because somebody was a policeman testifying in his official capacity, that you would tend to believe him more so than somebody else?

A If I was told not to believe it by the Judge, I would most certainly -- I feel that I would put myself to follow instructions.

Now, if the Judge said that because he was a policeman I should not believe what he said, I would try certainly to weigh what was said and not be judged by the job that he held.

Q In our common everyday experience, if we think about it, a policeman is no more infallible than somebody else, a common ordinary citizen, is that correct?

A Yes.

Q And a doctor is no more or less infallible than a common ordinary citizen?

A Right.

Q And a lawyer is no more infallible than a common ordinary citizen?

A Right.

Q So if I understand you correctly, then, if Judge Talty were to instruct you that the position of a man, his official capacity, should not enter into your determination as to whether or not you are going to give him greater or less credibility or believability, you will follow that instruction, is that correct?

A I would certainly try.

MR. CORRIGAN:

Pass for cause,

your Honor.

THE COURT: Counselor Bailey
or Sherman?

VOIR DIRE EXAMINATION OF JOSEPHINE R. VERNON

By Mr. Bailey:

Q Mrs. Vernon, are you still a subscriber to the
Cleveland Press?

A No, we are not.

Q When did you terminate your subscription?

A Oh, some time during the summer, three or four months
I would say.

Q This year?

A Yes.

Q So that you were taking the Cleveland Press regularly
last January?

A Yes.

Q Do you recall whether or not last January you read
something about this case in a series of articles?

A No, I did not.

Q Now, back in 1954, you followed the news accounts
that appeared in the Cleveland Press fairly closely, is
that correct?

A Yes.

Q I take it in that newspaper you read a good deal of

information about the case?

A Yes.

Q Now, do you recall that it was claimed that a woman named Marilyn Sheppard had been killed?

A Yes.

Q And that her husband was a doctor?

A Yes.

Q And that they lived in Bay Village?

A Yes.

Q And that he was supposed to have been in the house at the time?

A Yes.

Q Do you recall any additional details or information about the case?

A I have a horrible memory for things that I have read. Let's see, they have a son --

Q Yes.

MR. CORRIGAN: Objection, your Honor.

THE COURT: Sustained, Counselor. Complete the question, Counselor.

When the Court sustains an objection, Mrs. Vernon, then you will please not answer or you will cease your answer if you are in the midst of it.

MRS. VERNON: Thank you.

MR. BAILEY: If it please the Court, the answer was not responsive and I ask that it be stricken. The question should be answered yes or no. I would like to put it for that purpose.

Q Just do you recall some information about the case?

A Yes.

Q Now, you have told us that you at no time during the past twelve years and from the day of the incident itself, July of 1954, have ever formulated any opinion?

A No.

Q Have you ever had occasion, Mrs. Vernon, to express an opinion one way or the other to anyone?

A I would say no definite opinion. I'm sure I have talked along with a lot of people at that time.

Q Well, many of them would give you their opinion of Doctor Sam's guilt or innocence?

A Yes.

Q Would you say a majority of the people who talked about the case had some feeling about it one way or another which they expressed to you?

A I would say a lot of people do.

Q Did any of them ever say what do you think about that, what do you think about the case?

A I don't recall anyone specifically saying it. I would imagine they have.

Q Do you recall whether or not if such a question were put to you, you answered it?

A I would assume that I didn't because I don't --

Q Have you had some talk with Mr. Vernon about the case from time to time?

A Oh, not -- I don't remember about twelve years ago; and not recently.

Q Has he ever expressed an opinion that you can recall?

A No.

Q Would you say that your discussions with him, such as they may be, you never reached a conclusion one way or the other on the issue of guilt or innocence?

A No.

Q Do you recall whether or not in 1954 in the Cleveland Press, you read some editorials?

A I don't recall. I doubt it.

Q In other words, if you read them, you have no present recollection of what they said or what they were pushing for?

A That is right.

Q Mrs. Vernon, are you conscious of ever having felt one way or the other as to the question of whether or not Doctor Sheppard was doing the proper thing, and being cooperative, and so forth, in the course of the

investigation and trial, did you ever form an opinion in that regard?

A I would -- yes, I think.

Q You did?

A Yes.

MR. BAILEY: May we approach the bench?

(Thereupon counsel and the Court conferred at the Court's bench, out of the hearing of the jury panel, as follows:)

MR. BAILEY: Your Honor, in deference to your ruling yesterday, I won't ask in open court what that opinion was or is, but I certainly want it on the record she says she did form an opinion.

MR. CORRIGAN: I object to the question. Let us assume you ask the question, and she says, "In my opinion he was most cooperative." Then where do you go from there?

MR. BAILEY: That is fine with me.

MR. CORRIGAN: On the other hand, if the opinion was that he was not cooperative, then of course, you would challenge for cause.

MR. BAILEY: Right.

THE COURT: Gentlemen --

MR. CORRIGAN: But you have got
to go one step further.

THE COURT: Gentlemen, let's
wind it up here.

Counselor, do not pursue this line
of inquiry any further with respect to what
opinion she may have reached.

Please pursue another line of
questioning.

(Thereupon proceedings were resumed within the
hearing of the jury panel, as follows:)

By Mr. Bailey:

Q Mrs. Vernon, from your reading of this case which I
understand is principally from newspapers or other sources
such as books and magazines -- is that true?

A Yes.

Q From your reading of this case, do you have any
recollection of what the evidence was in the case that was
talked about or written about?

A No, I don't remember anything about the evidence at
all.

Q Are you conscious of having had back in 1954, a
feeling about the defendant personally and his cause, that
is to say, were you sympathetic or unsympathetic, did you

have such a feeling?

A I think feelings like this can run hot and cold, I mean, it could be --

MR. SPELLACY: I'm going to object, Judge, to the form of the question.

THE COURT: Overruled. Proceed.

A I think -- could I --

THE COURT: Do you understand the question?

MRS. VERNON: Could I have it repeated?

THE COURT: Surely. Mr. Reporter, would you be kind enough to read the question.

(Last question was read by the reporter.)

THE COURT: Objection is sustained.

A Well, as I -- it was sustained?

THE COURT: The objection was sustained. If there is any doubt just look to the Court and we will be happy to keep you posted.

MR. BAILEY: Again, your Honor, I ask that the answer be stricken.

It was not responsive. It called for yes or no, and I believe I should be entitled to a yes or no.

THE COURT: The answer as it now stands is not responsive. It is ordered stricken and you may put the question, Counselor.

Q Just tell us whether you had such feelings without saying what they were; I ask you whether you were conscious back then or whether you recollect having had any sympathy or antipathy for Doctor Sheppard?

A Yes, I recall.

Q You did have such feeling?

A Yes.

MR. CORRIGAN: May I approach the bench, please?

THE COURT: Yes.

(Thereupon counsel and the Court conferred at the Court's bench out of the hearing of the jury panel, as follows:)

MR. CORRIGAN: May I ask the reporter to read the last statement made by defense counsel after she had answered the question.

THE COURT: Please read it.

(Record was read by the reporter.)

MR. BAILEY: Again, I assume that your Honor is instructing me not to ask what they were.

THE COURT: Yes.

MR. BAILEY: And I wish to note my objection.

THE COURT: Yes. And you are precluded from asking that question, Counselor.

MR. BAILEY: I understand.

(Thereupon proceedings were resumed within the hearing of the jury panel, as follows:)

THE COURT: Please proceed, Counselor.

By Mr. Bailey:

Q Mrs. Vernon, I gather that before and during the original trial itself, friends and associates or in whose company you happened to be would have opinions to offer on the matter?

A I am sorry, I didn't understand you.

Q I say, I gather that before and during the original trial when all of these proceedings were front page news, back in 1954, that you were exposed to all kind of opinions from friends and neighbors, and so forth?

A Yes.

Q And after the trial, from 1954 on right up until the present time, has there been a continuation of this stream of opinion that you have been exposed to, will you tell us that?

A Not as much so certainly recently as probably at that time, I mean, in '54.

Q Mrs. Vernon, do you feel under any pressure in this respect, that is, do you feel that your community or people that you would be associating with again after this case is over, if you sit on this case as a juror, are expecting some given result and would be critical of you if you didn't conform your vote as a juror to what this community may be expecting according to the opinions they have expressed?

MR. CORRIGAN: Objection.

THE COURT: Sustained.

Q Do you feel that any of the talk that you have heard or awareness you may have of the community's opinion, would in any way inhibit your ability to be a fair and impartial juror?

A No.

Q Mrs. Vernon, do you presume the defendant Doctor Sheppard to be innocent?

A No.

MR. BAILEY: Challenge for

cause.

MR. CORRIGAN: May we approach the bench, please?

(Thereupon Court and counsel conferred at the Court's bench out of the hearing of the jury panel, as follows:)

MR. CORRIGAN: The proper question that should have been asked is if the Court instructs you that he is afforded the presumption of innocence, will you afford that to him?

MR. BAILEY: You may think that.

MR. CORRIGAN: We do not expect that a juror knows what the law is. We cannot expect that a juror knows that they have to presume somebody innocent. We cannot expect that a juror knows that we have to prove a case beyond a reasonable doubt.

We cannot expect that a juror knows that a defendant has a right not to take the stand, unless we first preface the question with, "If the Judge instructs you that this is the law."

MR. BAILEY: That may be your position, Mr. Corrigan. You didn't object to

the question, and it is a proper question.

MR. CORRIGAN: I agree, I did not object.

MR. BAILEY: But I am not suggesting a procedural default. I think the question is proper and relevant.

I think the answer disqualifies this woman and she should be removed from the panel.

If you wish to keep her on, we are going to wind with a defective record again.

MR. CORRIGAN: I think in this instance, your Honor, because we failed to object and because the question came out and the answer came out, that the challenge should be granted.

THE COURT: Yes. Let the record show that the Court is going to grant this challenge for cause, and excuse Mrs. Vernon.

However, the Court instructs both Counselors that in questioning further prospective members of this panel, in this area, that the Counselors preface their question

by asking the prospective member of the panel that if the Court were to instruct them that the defendant is presumed to be innocent, as he now sits in Court, whether or not the prospective member of the panel will follow that instruction, and all Counselors are forbidden to put the question in its naked form from here on in, as to whether or not the prospective member of the panel presumes the defendant to be innocent.

Do all of you gentlemen understand that?

MR. CORRIGAN: Yes, sir.

MR. BAILEY: I understand, but I object to that instruction. I have already objected to the former instruction, the Court has so limited Counsel in this voir dire examination, that I consider it as an attorney impossible to satisfactorily tell whether or not a juror has a deep-seated opinion, and I cannot adequately protect Doctor Sheppard against those who have such opinions, because I cannot discover them under the very limiting rules.

Furthermore, I move for a challenge

to the entire array that has been seated here and listened to this woman tell that she does not presume this defendant innocent.

I think they have been tainted in this process, and I once again move that the selected jurors do not listen to the voir dire.

THE COURT: Let the record show that the Court is granting this challenge for the reason that the State of Ohio did not enter a timely objection, and that the motion challenging the array is overruled, and Counselors will bear in mind and strictly observe the Court's instructions here with respect to putting this question which resulted in, which is going to result now in Mrs. Vernon being excused, from putting that same question in its naked form to any other prospective member of this panel.

Do we understand each other, gentlemen?

MR. CORRIGAN: Yes.

MR. BAILEY: Yes.

(Thereupon proceedings were resumed within the hearing of the jury panel as follows:)

THE COURT: Mrs. Vernon,

the Court wishes to commend you for your willingness to serve in this matter, and for the time that you have spent with us in the past two days.

The Court is going to grant the challenge for cause, which has been entered in this case, and you are hereby excused.

Before returning to your jury assignment room for further assignment in this building, you are hereby instructed and you shall bear in mind, please, these instructions, that you shall not discuss this case with anyone.

You shall not permit anyone else to discuss it with you, nor shall you permit yourself in any fashion to make a statement concerning this case until such time as this jury in this case returns its verdict in open court.

Do you understand?

MRS. VERNON: Yes, I do.

THE COURT: If there is any question about these instructions, before you make any statement or discuss even with any member of your family, if you have any doubt in your mind as to what the admonition is or

the instructions of the Court, please report
to me personally.

Thank you, Mrs. Vernon. You are
excused.

MRS. VERNON: Thank you.

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