

THEREUPON, SOPHIE M. LAKE, 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. Lake. Mrs. Lake, you are going to have to keep your voice up so that each one in the room can hear you, and if you feel more comfortable by setting your purse down alongside your chair you may do so.

Mrs. Lake, the lawyers are going to ask you questions, and the Court from time to time may have a question to put to you.

You will remember, Mrs. Lake, that you are under oath.

MRS. LAKE: Yes.

THE COURT: Please keep your voice up so that each one of us can hear you. Will you make an effort to do that?

MRS. LAKE: I will try.

THE COURT: Counselor Corrigan or Spellacy?

VOIR DIRE EXAMINATION OF SOPHIE M. LAKE

By Mr. Spellacy:

Q For the record and Mr. Romito, our court reporter, would you tell us your full name?

A Sophie Mary Lake.

Q You will have to keep your voice up so we can all hear you at the trial table.

Where do you live, Mrs. Lake?

A 7453 North Linden Lane, Parma, Ohio.

Q How long have you lived there?

A Three years.

Q Prior to living on Linden Lane in Parma, Ohio where did you live?

A 10913 Woodview Boulevard in Parma Heights.

Q How long did you live there in Parma Heights?

A Thirteen years.

Q Thirteen years?

A Yes.

Q Are you from Cleveland, Mrs. Lake?

A Yes, I am.

Q Have you lived in Cleveland all your life?

A Yes, I have.

Q What portion of the city of Cleveland did you live in?

A The east side.

Q The east side?

A Yes.

Q What portion of the east side?

A Well, 86th and Superior Avenue.

Q Now, what does Mr. Lake do?

A He is self-employed. He is a commercial artist.

Q Can you describe that a little bit for me, please, commercial artist?

A Well, they do the advertising that you see in your magazines or newspapers.

Q He is self-employed, is he?

A Yes.

Q Where are his offices?

A 306 Park Building in Cleveland.

Q How long has he been in this particular business?

A Self-employed or in the business?

Q Self-employed.

A Eight years.

Q Prior to being self-employed, what did he do?

A He was a commercial artist and salesman for art.

Q Who did he work for then?

A Well, there were several. One was Advanced Art. Montgomery Fitz. Myer and Ward.

Q Are they in the Cleveland area here?

A Yes, two of them are, but one has dissolved.

Montgomery Fitz and Myer has dissolved.

Q How long has he been in this type of work?

A All his life.

Q Do you have a family?

A Yes, I do.

Q How many children, and their names and ages, please?

A Three children. Ronald is twenty. Dale is seventeen, and Susan is fifteen.

Q Are they in school?

A Yes, they are.

Q Is Ronald living at home now?

A Yes, he is.

Q What school does he go to?

A He goes to Community College.

Q Are the other children in school also?

A Yes, they are.

Q What schools are they in?

A Dale goes to Cathedral Latin and Susan goes to Nazareth Academy.

Q Now, in 1954, where were you living at that time, Mrs. Lake?

A On Woodview Boulevard.

Q That would have been in Parma Heights?

A Yes.

Q Have you read anything about this case?

A Recently?

Q Yes, recently.

A Yes, I have.

Q Did you read that in the local newspapers?

A In the Plain Dealer, yes.

Q Anyplace else?

A Not that I can think of.

Q Now, going back to 1954, did you read anything at that time about this case?

A Yes, I did.

Q Did you discuss it or form an opinion with regard to this case as a result of what you read?

A No, I did not.

Q Has anyone ever expressed an opinion to you with regard to this case?

A I really can't remember if they did or not.

Q Let me ask you simply, do you have an opinion in this particular case now?

A Truthfully, I don't.

Q If called upon to sit as a juror, would you be fair to both sides, both to Sam Sheppard and to the people of Ohio?

A I believe I could.

Q Do you understand that if selected as a juror that your job will be to try the facts, to find wherein the

truth lies?

A Yes.

Q The trial is really a search for the truth, and as a juror it will be your job to evaluate the witnesses who testify here, and in essence you use your everyday experiences and your common sense, in analyzing a witness, their demeanor, their candor, their believability, and Judge Talty will tell that you can take all of what they say, part of what they say, or none of what they say; do you understand that?

A Yes, I do.

Q Now one else can tell you what the facts of the case are?

A No.

Q You and you alone determine what the facts are?

A That's right.

Q And you and you alone determine and evaluate the witnesses who testify here?

A Yes.

Q Now, Judge Talty, however, will give you instructions of law. We all have our own ideas as to what the law is, or what it might be or what it should be.

Now, as a juror you are obliged to take the law that Judge Talty gives to you, and apply that law to the facts as you find the facts to be.

Could you set outside your mind any ideas you might have as to what the law is and accept the law that Judge Talty gives to you?

A Right now?

Q Pardon me?

A I mean, I didn't understand that part, I am sorry.

Q I know, it was a lengthy question. The trial is broken down into two parts, what we call the facts, and you and you alone determine what the facts are.

A Yes.

Q The law, the other part of the case, is what we call the law. Now, only Judge Talty can tell you what the law is.

A Yes.

Q And you are obliged to take that law from Judge Talty.

A Yes.

Q Will you do this if selected as a juror?

A Definitely.

Q And if Judge Talty would tell you -- strike that.

It is anticipated that police officers might testify here, and if Judge Talty were to tell you that you are to evaluate a police officer just like any other witness, and not to give him any greater credence or less credence, solely on the fact that he is a police officer, would you follow

that instruction?

A You mean that I should take --

Q In other words, you are to weigh his testimony just like any other witness?

A Yes.

Q And not believe him or disbelieve him solely because he is a police officer?

A That's right.

Q I also anticipate that Judge Talty will probably tell you that there are various kinds of evidence, what we refer to as direct evidence, and what we refer to as circumstantial evidence.

Do you follow me so far?

A Yes, I am.

Q Now, I anticipate that he will tell you that circumstantial evidence if properly proven is just as good as direct evidence, would you be able to follow that instruction of law?

A Yes, I would.

Q You see, by direct evidence we mean evidence from the witness as to what he or she saw or what they heard?

A Yes.

Q Circumstantial evidence, however, is proof of certain facts from the witnesses which you as a juror may infer other connected facts which follow according to our

common experiences.

A Yes.

Q For example, if we came in the building this morning at nine o'clock and the streets were dry, the grass was dry, the trees were dry, and we didn't have occasion to go out of the building or look out of the window until we went out on our noon recess, and at that time we saw that the streets were wet, there were puddles on the sidewalk, the grass was wet and the trees were wet, we could reasonably infer from that set of facts that sometime between the hours of nine o'clock and twelve o'clock that it rained.

A That's right.

Q Do you follow me?

A Yes.

Q This is what we mean by circumstantial evidence.

A Yes.

Q Would you be able to follow the instructions that Judge Talty gives to you on that matter of law?

A Yes, I believe I could.

Q Now, I also anticipate that Judge Talty will instruct you as a matter of law that as a juror you are only to be concerned with the facts as presented here in this courtroom?

A That's right.

Q And you are not to be concerned in your deliberations with penalty or with punishment, that if there is to be a

penalty or punishment, that that is within the sole discretion of his Honor Judge Talty; do you follow that?

A Yes.

Q And would you be able to follow that instruction of law?

A Yes, I would.

Q Do you know anybody connected with the County Prosecutor's Office?

A No, I don't.

Q Do you know anybody connected with the Sheppard family?

A No.

Q Do you know Russell Sherman or Mr. Bailey?

A No.

Q Do you know anything about Bay View Hospital?

A No, I don't.

Q Mrs. Lake, is there any reason that you can think of why you could not be fair to this defendant as well as to the people of Ohio?

A No, I couldn't think of any reason.

Q You would decide this case solely on the facts presented here in this courtroom?

A Definitely.

Q And apply the law that Judge Talty gives to you?

A Yes.

MR. SPELLACY: Thank you very much,

Mrs. Lake.

THE COURT: Counselor Bailey
or Sherman?

Do you pass for cause, Counselor
Spellacy?

MR. SPELLACY: Yes, sir.

VOIR DIRE EXAMINATION OF SOPHIE M. LAKE

By Mr. Bailey:

Q Mrs. Lake, where were you living in 1954?

A On Woodview Boulevard in Parma Heights.

Q The same place?

A Yes.

Q Did you subscribe to a newspaper back in those days?

A I didn't subscribe -- well, yes, we took a newspaper
then, that's right.

Q The Cleveland paper?

A Yes.

Q Which one?

A At that time it was the Cleveland Press.

Q Was it your custom in 1954 to read the paper nearly
every day?

A Yes.

Q Scan the front pages and the news sections?

A Yes.

Q Do you recall whether or not you were reading the editorials of the Cleveland Press back in 1954?

A I don't recall.

Q Do you recall reading any editorials in connection with this case in the Cleveland Press?

A No.

Q Did you follow the case with any interest when it arose?

A Well, like everybody else, I did, yes.

Q You read articles about it almost daily from July through December of 1954?

A Yes, I did.

Q A murder occurred, the arrest, the indictment, and the trial, and so forth?

A Well, I might not have read the whole thing, but it was there and I would see it and I would read as much as I -- maybe not the whole thing.

Q When you read the facts that were set forth in the Cleveland Press, did you believe them?

MR. SPELLACY: I object.

THE COURT: Sustained.

Q Did you, in 1954, or do you now, let me put it that way, do you now regard the Cleveland Press as a reliable source of information?

MR. SPELLACY: Objection.

THE COURT: Sustained.

Q Did there come to your attention through the Cleveland Press or any other news source anything at all about Doctor Sheppard's background, his personal life, his activities, and so forth?

A No.

Q You knew he was a doctor?

A I am sorry, I can't hear you?

Q You knew he was a doctor?

A Yes, I knew that.

Q And you believed that to be a fact?

A Yes.

Q Do you know what kind of doctor he was?

A He was an osteopath.

Q Do you have a family physician?

A Yes, I do.

Q Medical doctor or osteopath?

A Medical.

Q Are you aware of any distinction in your own mind between the two?

A Oh, not really, not really. My husband had been to an osteopath for back trouble.

Q Back trouble?

A Yes.

Q If you had some testimony, some medical opinion from a medical doctor on the one hand, and that opinion were

contradicted by an osteopathic physician, a doctor of osteopathy, would you tend to give more weight or credence to the opinion of the medical doctor, solely because he was a medical doctor?

A Yes.

Q Do you feel generally that medical doctors have a higher level of professional competence than an osteopathic physician?

A Well, I would say so.

Q Mrs. Lake, supposing that you heard testimony from a doctor who happens to be the County Coroner, employed by the State, and that was contradicted by some other doctor not connected with the State in any way, would you tend to give more weight or credibility to the testimony of the Coroner because he is a state official?

MR. SPELLACY: Objection.

THE COURT: Sustained as to form.

Q Well, assuming the facts which I have just given to you, Mrs. Lake, would you say that you would be more likely to believe an opinion by the County Coroner rather than any other doctor who might render an opinion on the issue?

MR. SPELLACY: Objection.

THE COURT: Sustained.

MR. BAILEY: May I finish the

question?

MR. SPELLACY: I am sorry.

THE COURT: The objection is sustained, even though the question has not been finished.

Please put it in proper form, Counselor.

MR. BAILEY: I am putting it in what I believe to be proper form, your Honor.

THE COURT: Just put the question.

MR. BAILEY: I press the question as put and I leave it there. I stand on it.

THE COURT: The question as put was improper. Put the question, Counselor.

MR. BAILEY: I choose, your Honor, to leave it in that form and stand on it.

THE COURT: The question will be stricken from the record. It is improper in form.

Q Do you know the County Coroner?

A Yes, I do. I know his name but I don't know him.

Q Have you ever met him?

A No, I haven't.

Q Have you ever read anything about his opinions in this case?

A I can't remember.

Q Did you and your husband ever talk the case over that you can recall?

A Years back you mean? I really can't give you a definite answer. I don't remember, really, whether we did or not. We thought it was horrible.

Q What did you think was horrible?

A Well, the whole thing, the situation itself, but we never, I never voiced an opinion.

Q Well, excuse me for a minute, but you say you thought it was horrible; did you mean the fact that somebody was murdered?

MR. SPELLACY: I object.

THE COURT: Objection sustained.

Q Will you tell us what it was that you thought was horrible?

A MR. SPELLACY: Objection.

THE COURT: Objection sustained.

Q Did you have any feeling or inclination for or against Doctor Sheppard back when all this was coming to your attention?

A No.

Q Now, you read, of course, that the trial at some point came to a conclusion and the jury reached a verdict?

A Pardon me?

Q Did you read about that, that the trial had ended and the jury had rendered a verdict?

A Yes, but I can't remember. Right now, I don't remember.

MR. SPELLACY: I object, your Honor.

THE COURT: Objection is sustained. The answer is stricken.

Q Did you learn from any source what happened to Doctor Sheppard as a result of the trial?

A In the newspaper, yes.

Q And you learned that he was convicted?

A Yes.

Q At that time, did there arise in your mind an opinion as to whether or not he was guilty or innocent?

A No.

Q Now, a couple of years ago, do you recall reading in the newspaper or learning from some news source that he had been released?

A Yes.

Q Did you read about that and learn the bases for his release, and so forth?

A Did I learn about his release?

Q Yes.

A Yes, I did, I read it.

Q You read some articles that explained how he was released and who had released him?

A I have, but like I say right now, I can't remember the details.

Q You no longer recall what those reasons were?

A No.

Q Earlier this year, you read about the ruling made by the United States Supreme Court, did you?

A I am sorry, I can't hear you too well, either.

Q I am sorry. Earlier this year, did you read about a ruling in the Sheppard case made by the United States Supreme Court?

A I can't remember that, either.

Q You can't recall whether you did or not?

A No.

Q How many people would you say have expressed an opinion which you heard relative to the merits of Doctor Sheppard's case?

A I don't know.

Q Back in 1954, wasn't there quite a bit of talk about it in your community and among your friends?

A Yes, but I think, it died out, I mean, I really can't

remember.

MR. CORRIGAN: Objection, your
Honor. It calls for a yes or no.

THE COURT: Objection sustained.

MR. BAILEY: May the non-responsive
portion be stricken.

THE COURT: The non-responsive
portion of the answer is ordered stricken.

Q Mrs. Lake, do you understand that the status of Doctor
Sheppard at the beginning of this retrial of this case is
just the same as it would be if he had never been tried
before?

A Is the status?

Q Do you accept that to be true?

MR. SPELLACY: Objection.

THE COURT: Sustained in its
present form, Counselor.

Q If Judge Talty instructs you that the fact that Doctor
Sheppard was tried, convicted, and that conviction was
reversed, is to be given absolutely no weight by you in
determining as a juror his guilt or innocence, will you be
able to accept and follow that instruction?

MR. CORRIGAN: Objection.

THE COURT: Objection overruled.

She may answer.

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

THE COURT: Yes, you may.
(Thereupon counsel and the Court conferred at the Court's bench out of the hearing of the jury panel, as follows:)

MR. CORRIGAN: The question was if Judge Talty instructs you that this case has been reversed. This case has never been reversed.

MR. BAILEY: That wasn't my question, and it has been reversed.

MR. SPELLACY: It wasn't.

MR. BAILEY: That wasn't my question. I didn't use the word "reversed" in the last question.

THE COURT: Read the question back, please.

(Record was read by the reporter.)

MR. BAILEY: I will stand on the question.

THE COURT: The Court will stand on its ruling and will disallow the question.

MR. BAILEY: Let the record

show the defendant will stand on the question.

Q Mrs. Lake, do you have some feeling of the guilt or innocence of Doctor Sheppard from what you have read or heard about this case?

A No.

Q If the Court instructs you that you must presume, as of the moment this trial begins, that the defendant is innocent --

A Yes.

Q --if the Court gives you that instruction, are you able to accept that instruction and presume him innocent, notwithstanding the fact that you have heard quite a bit about this case, are you able to do that?

A I don't understand the question.

Q Let me rephrase it. I will tell you now that the Court will instruct you again -- and the Court has already instructed you-- that the defendant like any other defendant is presumed to be innocent at this very moment, at the commencement of this trial --

A Yes.

Q --and I ask you whether or not you will have any difficulty in actually presuming him innocent in your own mind, notwithstanding all that you heard about this case in the past?

A I think I would.

MR. BAILEY: Challenge for
cause.

THE COURT: What did you
mean by your response?

MRS. LAKE: No, I'm sorry.

THE COURT: Will you explain
your response, Mrs. Lake?

MRS. LAKE: No, I -- no,
in other words, I didn't mean that answer
what I said.

THE COURT: Will you explain
your answer, please, and explain it in your
own way, and relax and tell us what you meant.

MR. SPELLACY: May we approach
the bench?

THE COURT: I prefer not,
gentlemen.

Q Explain your answer if you will,
please.

A What I really meant was that I would be free to
voice my own opinion or judgment on him, but not that I
feel that he is innocent without a jury trial.

THE COURT: If the Court
instructs you that the defendant in this case
as in every case, is presumed to be innocent --

MRS. LAKE: Yes.

THE COURT: --as of this moment of trial, will you afford him that presumption of innocence --

MRS. LAKE: No.

THE COURT: --and follow the Court's instruction?

MRS. LAKE: I wouldn't think he was innocent without a jury trial.

THE COURT: May I see Counselors?

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

MR. CORRIGAN: I couldn't hear her response to your question, Judge. May I have it read back?

(Record was read by the reporter.)

MR. SPELLACY: If I may interject, I think this is just the reverse, she is willing to concede he is innocent and give him a fair trial, a jury trial.

MR. BAILEY: If he proves his innocence.

MR. SHERMAN: I think her

position is he was arrested --

THE COURT: Pardon me, I
can't hear you.

MR. SHERMAN: I think from
her answer that she is presuming because he
is arrested and here, that he is guilty.
This is the answer I get from her answer,
that he is not innocent unless proven so by
a jury trial.

MR. CORRIGAN: The State will
join with the defense in the challenge for
cause.

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

THE COURT: Let the record
show that on the joint motion of Counselors,
Mrs. Lake is excused for cause.

Mrs. Lake, the Court wishes to
thank you for the time you have spent with us
yesterday and today.

But before excusing you as having
participated in this case, to the extent that
you have, the Court instructs you, Mrs. Lake,
that you shall not discuss this case with
anyone, not even with a member of your family

until such time, Mrs. Lake, as the jury in this case has returned its verdict in open court.

You shall not discuss it, nor shall you permit anyone else to discuss it with you.

Will you follow those instructions, Mrs. Lake?

MRS. LAKE: Yes.

THE COURT: Until such time as a verdict by the jury has been returned in open court.

Thank you very much, Mrs. Lake.

MR. BAILEY: Your Honor, before the next juror is called, may the record simply show the defense reiterates the challenge to the array on the grounds earlier stated in the record.

THE COURT: Let the record so show.

(Thereupon the balance of the prospective jury panel was brought into the courtroom and the following proceedings were had:)

THE COURT: Ladies and gentlemen of the prospective jury, you will bear in mind, as you take your recess now, your luncheon recess until 1:30, the instructions given you on each

occasion when you leave the room, and that is you shall not discuss this case amongst yourselves.

You shall not permit anyone to discuss it with you, nor shall you permit yourselves to overhear anything that relates to this case by any means or media of communication.

We will stand recessed for lunch until 1:30.

(Thereupon adjournment was taken to 1:30 p.m., Tuesday, October 25, 1966, at which time the following proceedings were had:)