

Thereupon EDGAR L. FRANCIS was called by the Court as a witness, and, being first duly sworn, was examined and testified as follows:

THE COURT: Now, Mr. Corrigan, will you be kind enough to disclose those pictures that you have?

Mr. Francis, you are the bailiff of this Court and one of those who were in charge of this jury during their deliberations?

THE WITNESS: Yes, sir.

MR. GARMONE: Do you want them up here? (Referring to pictures.)

THE COURT: You might just show them to him so he can see what they are.

Will you look at that picture in the Cleveland News -- of what date?

MR. GARMONE: December 20th, Judge.

THE COURT: December the 20th.

THE WITNESS: This picture --

THE COURT: Wait a minute. Do you know when or about when and where that picture was taken -- those pictures were taken?

THE WITNESS: Well, it was taken in the coffee room of the Carter Hotel. I think the five

ladies' picture was taken first, and then the gentlemen of the jury. The ladies stepped aside and the gentlemen of the jury -- their picture was taken.

THE COURT: To what extent was the jury separated at that time?

THE WITNESS: Well, about 10 feet.

THE COURT: Sir?

THE WITNESS: Ten feet. About 10 feet apart. The same room.

THE COURT: You mean the men from the women?

THE WITNESS: That's right. After the first picture was taken, they stepped aside, and then the others went over and got in line and had their pictures taken.

THE COURT: Was there any conversation by anyone, other than the two bailiffs, with the jury?

THE WITNESS: No, sir. X

THE COURT: How long did that separation take place?

THE WITNESS: Oh, a few minutes. A few minutes.

THE COURT: Have you any questions?

MR. GARMONE: Do you want to go into the other picture?

THE COURT: Yes. Showing you --
what paper?

MR. GARMONE: Cleveland Press of
December the 21st, Judge.

THE COURT: Do you recognize those
pictures?

THE WITNESS: As near as I can re-
collect, that was taken in the hotel, too, all in the
same room at the same time. I'm not sure what room
that was taken. It was taken in the Carter Hotel.

THE COURT: Do you recall spe-
ficially the taking of this picture?

THE WITNESS: No, I don't recall this
specifically. There were so many pictures taken --

X THE COURT: Let me ask you, then:
Were the jury at any time separated beyond the few
minutes or moments that it would take to take those
pictures in that fashion?

THE WITNESS: No, sir, no time.

THE COURT: And was any communication
had with them at any time at any place by anyone other
than the bailiffs?

THE WITNESS: No. No one ever talked to
this jury, outside of one fellow that was inebriated,
he stepped up one night, but the bailiff pushed him

aside before he could say a word to them. That was when they were registering. X

THE COURT: Have you any questions?

MR. DANACEAU: No.

THE COURT: Have you any questions?

CROSS EXAMINATION OF EDGAR L. FRANCIS:

BY MR. GARMONE:

Q You don't know where this picture was taken?

A I'm not sure, Fred.

Q You started to say that there was so many pictures taken that you don't remember where this one was taken.

A I mean they were snapping pictures right and left.

Q At the Carter Hotel?

A No, not at the Carter. All over.

Q Where were some of the other places?

A Well, they were moving when these were taken. They were walking.

Q The jurors were walking?

A Yes.

Q On the street?

A Yes.

Q And photographers were taking their pictures?

A That's right.

Q Well, in what part of the city were they walking?

A Toward the restaurant, Shanghai Restaurant.

Q Any place else?

A No. That's about all.

Q Walking in the vicinity of the Carter Hotel?

A They got a few pictures in the lobby when they were coming in at night, late at night.

Q Now, you had instructions from his Honor, Judge Blythin, about your obligation to this jury, is that right?

A That's right.

Q That there was to be no contact?

A That's right.

Q No communication?

A That's right.

Q Under any circumstances?

A That's right.

Q There was to be no contact, no communication, except -- I will withdraw that. That there was to be no contact and no communications without first consulting with his Honor, Judge Blythin?

A That's right.

Q You didn't do that in this instance, did you?

A No, I didn't.

Q You didn't do it in the instance where the jurors' pictures were taken where the five ladies were shown?

A No, that's right, Mr. Garmone.

Q And you didn't do it in the instance where the picture was taken where the seven gentlemen were shown?

A That's right.

Q Is that correct?

A Correct, sir.

Q Now, where is this dining hall located in reference to the lobby of the Carter Hotel?

A As you go in, it is to the left.

Q Off of the lobby floor or off the second floor?

A No. The lobby floor. The coffee shop.

Q And that room was a room that was set aside from the balance of the dining room so you could enjoy some privacy, wasn't it?

A That's right. It was open -- partly open.

Q Well, were there arrangements made by you and Mr. Steenstra about dividing that room so there would be privacy between the rest of the people eating in that place and where the jury was to be seated?

A I had nothing to do with those arrangements, Mr. Garmone.

Q Do you know whether such arrangements were made by Mr. Steenstra?

A No, I don't.

Q But these photographers came in -- these photographers came in on these respective occasions to that portion of the dining room where the jury was eating and took these pictures?

A That's right.

Q Who did they contact before the pictures were taken?

MR. PARRINO: Object to that. He didn't say they contacted anyone.

Q Well, I will withdraw it. The photographers talked to you before the pictures were taken?

MR. PARRINO: Objection. He has gone into that.

THE COURT: Well, he may answer that.

A On one occasion.

Q On which occasion did they talk to you? Was it the occasion where the five ladies were taken in separation as against the pictures taken by the seven men?

A That's right.

Q And where did that conversation take place?

A Just at the door.

Q At the door leading into the Carter Hotel?

A No. The sliding door between the coffee shop and the other part of the hotel.

Q The sliding door between the coffee shop and the lobby portion of the hotel?

A No, not the lobby. It was the other part of the dining room.

Q Was there a sliding door that separated the dining room that you ate in as against the dining where the public was eating in?

A That's right.

Q Well, those sliding doors were closed, weren't they?

A Well, they were open about that much, about three feet, maybe.

Q They could have been closed, couldn't they?

A Yes, they could have been.

Q Did you ever see that they were closed?

A No.

Q Did Mr. Steenstra ever make it his business to see that they were closed?

A I couldn't say.

MR. DANACEAU: Objection.

Q Now, when the photographer came to the portion of the dining room that was cut off by these sliding doors that separated the jurors from the balance of the public that was enjoying the facilities of the restaurant, who did he talk to? Did he talk to you?

A That one time he talked to me, yes, when the five and seven were taken.

Q Did you contact Judge Blythin after your conversation?

MR. DANACEAU: Objection. He went into that.

A No, I didn't.

MR. PARRINO: Just a minute, Mr. Bailiff.

Would you wait?

MR. DANACEAU: Would you wait when
there is an objection for a ruling by the Court,
please?

Q Did you talk with any members of the jury?

A No, I didn't talk to them.

Q You took it upon yourself to have --

A Yes. I did talk to them.

Q Who did you talk to?

A Well, the group. I just said, "Would you mind having your
picture taken?"

Q Did you direct your remarks to anyone at all?

A No one in particular.

Q Well, this first picture was taken after there had been
elected a foreman of this jury, is that right?

A That's right.

Q And that foreman was Bird?

A Bird, yes.

Q You had knowledge that he was the foreman, didn't you?

A Sure.

Q Prior to the time that the picture was taken?

A That's right.

Q Did you inquire from him whether or not the picture should be
taken?

MR. PARRINO: Objection.

THE COURT: Objection sustained.

Q Did you go specifically to Mr. Bird, the foreman of that jury, and ask his permission that the picture be taken?

MR. PARRINO: Objection.

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

Q Mr. Francis, when you were sworn in to be the guardian or the protective custodian of the jury in their travels from the courtroom to the hotel, and during their stay at the hotel, weren't you instructed that any communication between yourself and the jury would have to be to the foreman, Mr. Bird?

A Yes.

MR. PARRINO: Objection.

THE COURT: Objection sustained.

Q You didn't follow those instructions in this particular instance, did you?

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

MR. GARMONE: Exception.

Q Now, when the second picture was taken, that was taken after the jury had started their deliberations, is that right?

A I don't remember, Mr. Garmone.

Q Well, if the date says December the 21st --

MR. DANACEAU: We object to that. The witness has testified he doesn't know anything about that subject, and if you are going to just read him

a newspaper --

THE COURT: What was the question?

MR. GARMONE: The question was that when the second picture was taken, that was taken after the jury had begun their deliberations.

MR. DANACEAU: And the witness says he doesn't know anything about the second picture.

THE COURT: That is what the witness said.

MR. GARMONE: He said he didn't know anything about the second picture?

MR. DANACEAU: Well, read his answer, if you want it.

Q Well, I will ask you, Mr. Bailiff: Was this picture taken out of your presence?

A I don't remember this picture at all, Mr. Garmone.

Q Well, weren't you with the jury at all times, Mr. Francis?

A I certainly was.

MR. PARRINO: Objection. Just a moment.

THE COURT: Well, he said he was.

Q Well, now; tell us, Mr. Francis, whether that picture that has been introduced here, taken on the 21st day of December, 1954, was taken in or out of your presence?

A It was taken in my presence, but I don't remember just where

it was taken, Mr. Garmone.

Q Did you communicate, after a request was made of you to take the picture, with the foreman, Mr. Bird?

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

Q Did you call his Honor, Judge Blythin, regarding this picture?

THE COURT: No, he did not, Mr. Garmone. We had no communication.

MR. GARMONE: May I have an answer from the witness?

MR. DANACEAU: Well, he has answered that several times before.

MR. GARMONE: Not on this picture.

MR. DANACEAU: He has.

THE COURT: He has already said that he did not, and the Court will say to you that the Court had no communication of any such character with either one of the two bailiffs. That can be blanketed into the record.

Q Mr. Bailiff, the jury in this case -- what floors of the Carter Hotel did they occupy?

A Seventh floor.

Q All 12?

A Yes, sir.

Q What floor of the hotel did Mr. Steenstra occupy?

A Seventh.

Q And you likewise the seventh?

A That's right.

Q Do you know, of your own knowledge, whether there was any telephone communications made out of any of the respective rooms that were occupied by any members of the jury?

A Their phones were cut out, Mr. Garmone.

Q By whose request?

A Mr. Steenstra arranged that.

Q And were there any telephone calls made from the room that you occupied?

A Yes, sir.

Q Did you make the calls, or did the jury make the calls?

A No. The jury made the calls, and I sat in the chair right alongside the telephone.

Q You did not take the numbers and make the call yourself?

A No, I did not.

Q And you did not make the inquiry for them that they made as a result of their own telephone calls?

A I don't quite understand it.

MR. DANACEAU: We object to it. The question has been answered already in another form.

MR. GARMONE: What question has been answered?

MR. DANACEAU: Your last question.

MR. GARMONE: Will you then agree or admit for the purpose of the record --

MR. DANACEAU: The answer will stand for itself.

MR. GARMONE: What was the answer? I didn't think I had an answer to it.

MR. DANACEAU: The previous question you had an answer along the same line. You asked the same question in two different forms.

MR. GARMONE: Maybe I want an answer in two different forms. I mean, if Mr. Danaceau --

THE COURT: What is the question before the house, gentlemen? I lost the question.

Q Did you make a record of the -- keep a record of the telephone calls that were made in your presence?

A No, I didn't.

70 Q Were you present when any telephone calls were made from Mr. Steenstra's room?

A Once or twice.

Q And those calls were made by the jurors themselves?

A That's right, sir.

Q Did you keep a record of those calls?

A No, I didn't.

MR. GARMONE: That is all.

MR. PARRINO:

Just a minute, please, Ed.

CROSS EXAMINATION OF EDGAR L. FRANCIS:

BY MR. PARRINO:

Q Mr. Bailiff, what was the purpose of the calls that the jurors made in your presence?

MR. GARMONE:

Objection.

THE COURT:

Well, he may answer who

the calls were made to, if you know.

A Well, they were made to their husbands and wives, and those that had children, they talked to the children.

Q Was there any conversation whatsoever about this case or their deliberations?

A Not one word, Mr. Parrino. X

MR. PARRINO:

That is all.

RE-CROSS EXAMINATION OF EDGAR L. FRANCIS:

BY MR. GARMONE:

Q The conversations that you heard were from the side that you were on, is that right?

A That's right.

Q By the person making the calls?

A That's right.

Q Is that correct?

A That's right.

Q What it was said back to that juror, you have no knowledge of?

A No.

Q And you can't say now at this time that there wasn't anything said about the case of Sam Sheppard from the other side of the telephone, can you, Mr. Francis?

MR. DANACEAU: Objection.

THE COURT: Objection sustained.

MR. GARMONE: Exception. That is all.
(Witness excused.)

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