

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

THE COURT: Good afternoon, Mr. Spinelli.

MR. SPINELLI: Good afternoon, sir.

THE COURT: Mr. Spinelli, the lawyers are going to ask you some questions, and will you keep your voice up, sir, so that each one of us in the room may hear you.

MR. SPINELLI: Yes, sir.

THE COURT: Mr. Spinelli, you will remember that you are under oath when you respond to these questions.

MR. SPINELLI: Yes, sir.

THE COURT: Thank you, sir.
Counselor Spellacy or Corrigan?

VOIR DIRE EXAMINATION OF MICHAEL A. SPINELLI

By Mr. Spellacy:

Q For the record will you please tell Mr. Romito your name?

A My name is Michael Anthony Spinelli.

Q Would you spell your last name, please?

A S-p-i-n-e-l-l-i.

Q Where do you live, sir?

A 18401 Dalewood, Maple Heights.

Q How long have you lived at that address?

A Twelve years.

Q Prior to living on Dalewood in Maple Heights, where did you live?

A Cleveland.

Q Whereabouts in Cleveland?

A 109th Street, Cleveland.

Q Are you married, sir?

A Yes, sir.

Q Do you have any children?

A Yes, sir.

Q How many, and their names and ages?

A I have five children of my own, and two that I took in.

Q Pardon me?

A I have five of my own, and two that I took in.

Q Are these children home yet?

A All but one, the oldest boy.

Q What is his name and age, please?

A Stephen Spinelli, twenty years old.

Q Twenty years old?

A Yes, sir.

Q Does he live in Cleveland?

A Yes, sir, in Maple Heights.

Q What are the names and ages of the other children?

A Well, I have Michael Angelo Spinelli, he is seventeen. Then I have two daughters, Diane Spinelli, she is twelve, and Laura Spinelli, she is nine, and then the two children that I took in, Marie De Pasquale and Linda De Pasquale. They are seventeen and eighteen.

Q Is Mrs. Spinelli employed outside the home?

A No, sir.

Q Has she ever been employed outside the home recently?

A No, sir.

THE COURT: Just relax, Mr.
Spinelli.

Q We are asking you these questions, Mr. Spinelli, not to pry into your private affairs, but just to obtain a jury that will be fair to both sides here; do you understand that?

A Yes, sir.

Q Are you employed, Mr. Spinelli?

A Yes, sir.

Q Where are you employed?

A Cleveland Cliffs Iron Company.

Q How long have you worked there?

A Eighteen years.

Q What are your duties there?

A Supervisory capacity.

Q Pardon me?

A Supervisory capacity.

Q How long have you held this position?

A I was hired as a superintendent.

Q What type of business are Cleveland Cliffs Iron Company?

A Iron Ore handlers, shipping.

Q Where are they located?

A Union Commerce Building.

Q Is that where you work, sir?

A No, I work down at the repair shop in the flats.

Q Where in the flats would that be?

A Off of Columbus Road.

Q Prior to working for Cleveland Cliffs Iron Company, where did you work?

A I was in the service.

Q What branch of the service?

A The Navy.

Q You understand, sir, this is the case of the State of Ohio versus Sam Sheppard, do you understand that?

A Yes.

Q Have you read anything about this case?

A No, not too much outside of just the headlines years ago, that's all, but I never went into details, read it in detail.

Q Have you ever expressed or had an opinion relative to

this case based on what you have read?

A No, sir.

Q Do you feel, sir, that if selected as a juror here, you would confine yourself to just what transpires here in this courtroom?

A Yes, sir.

Q And decide the case solely on the facts and the evidence presented here in this courtroom?

A Yes, sir.

Q Have you ever been a witness in any kind of a case, civil or criminal?

A I was in a civil, a witness in a civil case for our company when a fellow got hurt. That was all.

Q When was that, sir?

A About 1958, I believe.

Q Would that experience prevent you from serving as a fair and impartial juror here?

A No, sir.

Q Has any member of your family ever been a witness in either a civil or criminal case?

A No, sir.

Q Have you ever sat as a juror before?

A No, sir. First time.

Q You understand that if selected as a juror, that your job will be, as trier of the facts, you determine what the

"true facts are?

A Yes, sir.

Q You see, there are two parts to the lawsuit. What you do will be to determine the facts, you the jury, and you and you alone will determine what the facts are.

A Yes, sir.

Q And you do that by using your --

A Common sense.

Q --your common sense, and everyday experience that you use when you meet someone at work for the first time, or you meet someone shopping, you size them up as to their demeanor, their candor, their believability and their credibility; and you can accept all of what they say, part of what they say, or you can disregard all their testimony completely if you want.

A Yes, sir.

Q That is your prerogative as a juror, you understand that?

A Yes, sir.

Q Equally important, you must as a juror, take the law that Judge Talty gives to you, understand that?

A Yes, sir.

Q At the conclusion of the case after all the evidence is in, Judge Talty 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.

Can you accept the law that Judge Talty gives to you and disregard any ideas you might have?

A Yes, sir.

Q I anticipate that Judge Talty will tell you that the defendant in a criminal case is presumed to be innocent until proven guilty, and the State of Ohio has the burden to prove him guilty beyond a reasonable doubt?

A Yes.

Q Do you understand that?

A Yes, sir.

Q And will you follow that instruction of law?

A Yes, sir.

Q I anticipate that Judge Talty will tell you that there are various kinds of evidence, what we refer to as direct evidence, and what we refer to as circumstantial evidence, and if Judge Talty tells you that circumstantial evidence is just as good and just as binding as direct evidence, would you follow that instruction of law?

A No, sir.

Q Pardon me?

A No, sir.

Q If he were to instruct you as a matter of law, if you were selected as a juror in this case, you would not be able to follow that principle of law, if Judge Talty were to tell

you that circumstantial evidence is just as good and just as binding as direct evidence?

A I would be questionable on that, questionable on that.

Q Well, what do you mean you would be questionable on that?

A Well, it would have to be certain evidence.

Q Pardon me?

A I don't get the question.

THE COURT: Will you refer it, Counselor?

MR. SPELLACY: Yes, I was going to.

Q If Judge Talty were to tell you that circumstantial evidence is just as good and just as binding as direct evidence, could you follow that?

A The judge, he knows the law, yes, sir.

Q The Legislature of the State of Ohio has provided in all cases, civil and criminal, for the introduction of circumstantial evidence, you understand that?

A Yes.

Q And they did that for a reason. Now, would you be able to follow the instructions of Judge Talty insofar as direct and circumstantial evidence is concerned?

A Yes, sir.

Q You see, by circumstantial evidence we mean proof of facts from witnesses --

A Yes, sir.

Q -- who testify here from which you as a juror may infer a connected fact which follows according to your common experience.

A Yes, sir.

Q Now, an example of that would be that assuming when we came into the building this morning at 9:00, that the sun was out, the streets were dry, the grass was dry, and that the trees were dry; we didn't have occasion to look out of the building until we went out on our noon recess, we didn't have occasion to see out, the windows were closed and we didn't see out.

When we went out the sun was out, but the streets were wet, the sidewalks were wet, and they had puddles on them, the grass was wet, and the trees were wet.

We could reasonably infer from our common sense that some time between the hours of 9:00 when we came in, and 12:00 when we went out, that it had rained.

Do you understand what I mean?

A Yes, sir.

Q This is what we mean by circumstantial evidence. Would you be able to follow the instructions that Judge Talty gives to you insofar as circumstantial evidence is concerned?

A Yes, sir.

Q If he were to tell you that it is just as good and just

as binding as direct evidence, would you able to follow that instruction?

A Yes, sir.

Q Do you have any reservations about that?

A No, sir.

Q I also anticipate that Judge Talty will tell you that you are only to concern yourself with the facts that occur here in this courtroom, and that you are not to concern yourself with punishment or penalty, if any is to be applied at all, that this is a matter of discretion and only the Court himself concerns himself with that?

A Yes, sir.

Q Understand?

A Yes, sir.

Q And that penalty or punishment are not to enter into your deliberations at all, understand that?

A Yes, sir.

Q And that you are to decide the case free of bias, prejudice, or sympathy, and if selected as a juror, would you do that?

A Yes, sir.

Q Mr. Spinelli, do you know any members of the Cleveland Police Department, or any law enforcement agencies?

A Just long time friends around the neighborhood that I think are on the police, but I haven't seen them in the

last 20 years.

Q Now, I anticipate that there will be police officers who will testify here, and if Judge Talty were to instruct you that you are to weigh their testimony just as any other witness, and not give them more credence or less credence, merely because they are police officers, will you follow that instruction?

A Yes, sir.

Q In other words, you are to weigh them in the same manner as any other witness?

A As any witness, yes, sir.

Q Do you know anyone connected with the County Coroner's Office?

A No, sir.

Q And if Judge Talty were to instruct you that you are to apply the same tests that we have just talked about insofar as police officers are concerned, to any other witness who testifies here, such as a public official from the County Coroner's Office, will you follow that instruction of law?

A Yes.

Q Do you know anything about Bay View Hospital?

A No, sir.

Q Do you know any of the people here in this courtroom?

A No, sir.

Q Do you know any of the people connected with the County Prosecutor's Office?

A No, sir.

Q Is there any reason you can think of, Mr. Spinelli, why you couldn't be fair to this defendant as well as to the people of Ohio?

A No, sir.

Q And decide the case free of any biases or prejudices or sympathies?

A No, sir.

Q Pardon me?

A I wouldn't see why it would make any difference who it was.

MR. SPELLACY: Pass for cause.

THE COURT: Counselor Bailey or Sherman?

- - -

VOIR DIRE EXAMINATION OF MICHAEL A. SPINELLI

By Mr. Bailey:

Q Mr. Spinelli, you said back in 1954 when the Sheppard case originally became widely publicized, you noticed some headlines and that was about all.

A That's all. I would just look at the headlines or hear it over the radio, but I never read into it or pried into it. It didn't bother me.

Q Where were you working at that time, sir?

A Cleveland Cliffs.

Q What sort of work were you doing then?

A I was supervisor.

Q Can you recall whether or not you ever got into any discussions about the Sheppard case or heard comments about it from the people you worked with?

A No, sir.

Q How about those around the neighborhood?

A Never heard anything of it, outside of like I say, I just heard it on the news, that Sheppard was found guilty, that was all.

Q Now, at the time you heard that broadcast did you have an opinion as to whether or not he was guilty?

A No, I didn't make an opinion at all.

Q In other words, despite the fact that a jury had convicted him, you yourself had formed no judgment?

A No, I didn't.

Q In the past 12 years while the case has been under litigation, in the news from time to time, have you given it any thought?

A I forgot it.

Q You forgot it?

A Yes, sir.

Q Did you hear a couple of years ago that Doctor Sheppard

was released?

A No, sir.

Q You didn't hear that?

A No, sir.

Q Did you hear that the United States Supreme Court had ruled that his first trial was void?

A No, sir, I didn't.

Q If you are instructed by the Court, sometime during this trial, that all the prior proceedings, the trial, all the things that have gone on, are meaningless, just as if they never happened, and that Sam Sheppard sits in this courtroom today just as if he had never been tried, would you be able to accept that?

A Yes.

Q And put all these developments right out of your mind?

A Yes.

Q Mr. Spinelli, if during the course of the trial something should happen that would recall for you information that you had heard from sources other than the witness stand about this case, would you be able to completely disregard that information?

A Yes, sir.

Q And decide the case only on the evidence in this courtroom?

A In this courtroom, yes, sir.

Q You have been instructed already, and I presume that you will be again, that the defendant is presumed to be innocent?

A Yes, sir.

Q Having in mind whatever you may have heard or learned or thought about this case, however brief, will you have any difficulty in applying that presumption of innocence?

A No, sir.

Q And presume him innocent until it is proven otherwise?

A Until it is proven otherwise, yes.

Q And if you are told that a defendant in a criminal case cannot be convicted unless you the jury are satisfied beyond a reasonable doubt that he is guilty, will you be able to apply that rule to your deliberations?

A Yes, sir.

Q Supposing, Mr. Spinelli, in the course of talking this case over in the jury room, if you are selected as a juror, and the case goes to you for decision, supposing you find despite your own judgment and despite all discussion with all panel members, you tend to disagree with the majority, do you think you would be able to adhere to your judgment?

A Yes, sir.

Q Do you know anything at all about Doctor Sheppard's

background or professional life?

A No, sir.

Q You heard that he is a doctor?

A Well, that part, yes, by the papers, when I read it way back.

Q Well, you heard him referred to as Doctor Sam?

A Yes, well, Doctor Sam; in fact, I didn't know what court I was coming to here, and I didn't recognize him there until it was mentioned by the Judge.

Q Do you know what an osteopath is?

A No, sir.

Q Do you know what a medical doctor is?

A Yes, sir.

Q Well, in this case you may get testimony on the one hand from some medical doctor, you may get testimony on the other hand from osteopathic physicians, called doctor of osteopathy, if in sizing up these medical experts for the one side or the other, the Court instructs you that they are to be regarded as equals, they are all doctors, the law draws no distinction between them as to competency, will you be able to accept that instruction?

A Yes, sir.

MR. BAILEY: Pass for cause, your Honor.

THE COURT: Mr. Spinelli, would you

be kind enough to take the chair in the second row next to Mrs. Cowan.

MR. SPINELLI: Yes, sir.

- - -