

THEREUPON, MARIE MANNING, a member of the prospective jury panel, having been previously sworn, was examined and testified on voir dire, as follows:

THE COURT: Good afternoon, Mrs. Manning.

MRS. MANNING: Good afternoon.

THE COURT: It is Mrs. Manning?

MRS. MANNING: Yes.

THE COURT: Mrs. Manning, the lawyers are going to ask you some questions, and is this your first time in a courtroom?

MRS. MANNING: Yes.

THE COURT: Well, you be good enough to relax if you will. I know that since you are a stranger in courtrooms that you may be a bit uneasy, but you relax and pay attention to the questions, if you will.

Would you like to set your purse down alongside the chair, would that be more comfortable for you?

And keep your voice up, Mrs. Manning, so that each person in the room can hear your responses to the questions.

The lawyers will ask you questions, and

Mr. Ronito sitting here, he must report them, and the other members of the prospective panel, they must hear your responses, and each one of us sitting in the courtroom must be able to understand what your answers to the questions are; do you understand?

MRS. MANNING: Yes.

THE COURT: And if you do that, now, remember you are under oath.

MRS. MANNING: Yes.

THE COURT: We are now ready for Mr. Corrigan or Mr. Spellacy?

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, I move that you clarify your last statement, "the other prospective jurors sitting in the jury box must be able to hear and understand this witness," because it seems to me they have absolutely no function as far as anything she might say, and they may think they have, that they are supposed to listen to all her responses and be guided.

THE COURT: Well, the observation stands, and you may note your objection.

MR. BAILEY: All right.

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

VOIR DIRE EXAMINATION OF MARIE MANNING

By Mr. Corrigan:

Q Would you state your full name, please?

A Marie Manning.

Q How do you spell your last name?

A M-a-n-n-i-n-g.

Q Is that Miss or Mrs.?

A Mrs.

Q Where do you live, Mrs. Manning?

A 14901 Harley Avenue.

Q That is in Cleveland, Ohio?

A Yes, it is is.

Q How long have you lived at that address?

A Oh, I would say about 15 or 17 years.

Q Where did you live prior to that?

A On 124th -- Brookfield Avenue -- oh, no, I lived in Berea first, before I lived on Brookfield.

Q When did you live in Berea?

A It was when my daughter was born, around '45.

Q Then you moved?

A Then I moved in with my mother on Brookfield, and I lived there for about four years. Then I moved on to Harley.

Q In 1954 you lived on Harley?

A Yes.

Q That is twelve years ago?

A Yes.

Q What is Mr. Manning's occupation?

A A machine helper.

Q With what firm?

A Midland Ross.

Q How long has he been with them?

A I would say between 25 and 30 years.

Q Are you employed outside the household?

A I was until about four or five weeks ago.

Q And what was your employment?

A Carpet sewer.

Q With what firm?

A Cuyahoga Carpet Company.

Q Where are they located on Vega, I think it is 3315 Vega.

Q Before the last four or five weeks you had not been employed outside of the home?

A No.

Q Prior to working for that firm were you employed elsewhere?

A Yes, Cuyahoga Carpet bought out Halle's contract. I worked for Halle's carpet sewing concern for about three years; and prior to that I worked for Wilson Rug Company for about 15 years.

Q So that in 1954 you were working for --

A -- for the Wilson Rug Company.

Q In 1954, Mrs. Manning, did you have occasion to read any newspaper or magazine accounts of the Sheppard case?

A Yes, I saw headlines. I didn't go into it. I wasn't that interested in it.

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

A No.

Q Since 1954 have you seen anything in the newspapers about this case?

A Well, I have seen the headlines of the case. When I saw the headlines I just ignored it, because I just wasn't that interested in reading about it.

Q Did you hear anything on the radio or television recently?

A No.

Q Did you have occasion to discuss this case with Mr. Manning?

A No, I never did discuss it with him.

Q You had indicated that you have a daughter?

A Yes.

Q How old is she?

A 21.

Q Did you ever have occasion to discuss it with her?

A No.

Q Did you have occasion to discuss it with any of your fellow-employees at your various places of employment, or any of your neighbors or relatives?

A I didn't discuss it. I heard them talking about it.

Q Did they talk to you or with you about it?

A They talked among the others. I was there.

Q Did they express opinions one way or the other?

A Some of them did, yes.

Q Was the expression of these opinions influential in any manner?

A No.

Q Persuasive in formulating any opinion that you might have?

A No.

Q If you are selected as a juror, Mrs. Manning, you will be called upon to determine what the facts are in this case, with a view in mind of ultimately with your fellow jurors, arriving at a fair and impartial verdict of guilty or not



guilty, understand that?

A Yes.

Q And in determining what the facts are, will you employ your every day common sense in evaluating the various witnesses that testify?

Will you measure them up as you would some individual that you would meet on the street and determine whether he is telling the whole truth or no truth or partial truth?

A Yes.

Q If you are selected as a juror, will you join with your fellow jurors if the time arrives that you are to deliberate in this matter, and join with them in a full and complete discussion of the evidence and the testimony, with a view in mind of arriving at a fair and just verdict, fair to both sides, both the defendant and the State of Ohio?

A Yes.

Q Would you give greater credit or greater believability to a police officer who might testify, solely because he is a police officer, than to somebody else?

A No.

Q Or any other public official, if for example, the County Coroner or somebody from his office testifies, would you believe him more so than somebody else, simply and solely because he is the Coroner or a member of the Coroner's Office?

A It depends on if I thought he was telling the truth.

Q Well, just because he was the Coroner wouldn't enter it?

A No.

Q You would have to have an evaluation as to whether or not he was telling the truth, the whole truth, or no truth, is that correct?

A That's right.

Q And in arriving at that you would employ your every day experiences in determining when somebody is truthful?

A Yes.

Q Now, Judge Talty will tell you that criminal law provides that every defendant is presumed to be innocent, unless and until he is proven guilty beyond a reasonable doubt.

Will you accept that instruction from Judge Talty?

A Yes.

Q So that, in other words, the defendant in your eyes stands innocent and until the State of Ohio proves beyond a reasonable doubt each and every essential allegation in this charge, is that correct?

A That's right.

Q Have you, Mrs. Manning, ever been involved in any criminal matter as a witness or as a victim?

A No, I haven't been involved in any criminal matter except my daughter -- not my daughter, my sister has been put



on the front page by false statements, and I didn't like the idea, and I --

Q Would the fact that your sister has had that experience, and you are aware of that experience, would that cause you in any way to be biased or not fair in this case?

A No. I would want the actual truth, not just a yes and no statement.

Q Now, the Court will instruct you that there are several kinds of evidence. There is direct evidence and circumstantial evidence, and the Court will define to you the difference between the two, and I anticipate the Court will tell you that direct evidence is that which the witness perceives by his senses.

Will you accept that instruction?

A What do you mean directly by his senses? Just what he thinks or actually knows?

Q No, what he thinks, what he sees?

A Sees?

Q For example, if a man testifies that it is snowing outside and he knows this because he saw the snow, that is direct evidence.

A If it would be at a time when there should be snow, yes.

Q Now you are going into the question of believability.

If in July he says it is snowing, you wouldn't believe it?

A I would doubt it.

Q Now, let us assume that this morning when you came into this building, that the sun was shining, the streets were dry, the buildings were dry, and during the course of your stay here this morning you did not look outside, nor did you go outside, but at noon time you went out and the sun was shining, and the buildings were wet and the streets were wet and the grass was wet, you would presume from those circumstances that it had rained between the time you had arrived and the time you had gone out at noon, would you not?

A Yes.

Q That would be circumstantial evidence.

A Yes.

Q So that which flows naturally from a certain set of facts, those inferences are facts that you may draw from other facts, and if the Court tells you that properly proven circumstantial evidence is just as good and as binding as direct evidence, would you accept that instruction of the Court?

A Yes.

Q Mrs. Manning, is there any member of your family connected with any law enforcement agencies?

A No, not of my family.

Q Are you socially closely acquainted with any law enforcement people?

A Not closely, no.

Q Though the association may be remote, would this association in any way affect your judgment with regard to you being fair and impartial in this case?

A What do you mean how would it affect it?

Q The fact that you have a remote acquaintanceship with a law enforcement official --

A Yes.

Q -- would that cause you to favor the State over the defendant?

A No.

Q Would it cause you to favor the defendant over the State?

A No.

Q So that you would start off even?

A Yes.

Q With regard to both the State of Ohio and the defendant?

A Yes.

Q You had indicated that your sister had an unhappy experience and you had confused her for a moment with your daughter. Could it be, Mrs. Manning, that there was another matter that may have related to your daughter?

A No.

Q You have not had any prior jury service?

A No.

Q And you have never been, nor any member of your family, has ever been the victim of a crime that has been unsolved, or that has ultimately wound up in a criminal lawsuit?

A No.

Q Are you a native to Cleveland, Mrs. Manning?

A Yes.

Q And Mr. Manning is a native of Cleveland, also?

A Yes.

Q Have you or any member of your family had any connection or association with Bay View Hospital in Bay Village, Ohio?

A No, except we have driven by there, going out to picnics or visiting.

Q In the course of driving by there are you familiar with where in relationship to that hospital the Sheppard home is located?

A I know it is close there within about six or eight houses within the hospital they claim.

Q You determined this from some discussion you had with someone, is that correct?

A Yes, when you are riding, somebody in the car would mention it.

Q And that discussion then would center around some of

the facts in the Sheppard case, is that correct?

A Yes.

Q On how many occasions did this occur, Mrs. Manning?

A I think about twice. We were in the car and somebody said, "There is the home," or something.

Q I am not interested in what they said, but they just said something in connection with it?

A Yes.

Q Did this then lend itself to an expression of opinion?

A Well, I wasn't interested in it. I don't think I ever looked around.

Q You never had occasion to read any books in connection with this matter?

A No.

MR. CORRIGAN: Pass for cause, your Honor.

THE COURT: Counselor Bailey or Sherman?

VOIR DIRE EXAMINATION OF MARIE MANNING

By Mr. Sherman:

Q Mrs. Manning, again, I know the Court has stated it, but again, I want to mention that what we are doing now is not trying to pry into your personal life or dig up any facts, but only trying to get a fair and impartial jury, so that you understand we are not trying to just ask questions

just to pry into your life, you understand that, do you?

A Yes.

Q Mrs. Manning, in 1954 were you living in Cleveland?

A Yes.

Q What newspapers were you taking at the time, if any?

A At that time I don't think we were taking any newspapers.

Q Were there any newspapers available to you in your home at that time?

A I think I was busy working and I don't think I had time for newspapers at the time, if I can recall it.

Q I believe you stated, though, that you did read some headlines at that time, is that right?

A Yes, well, we always did get the Sunday paper.

Q Now, without stating what they were, can you still remember in your mind what these headlines stated?

A No.

Q When you were working in 1954 where was that at?

A Wilson Rug Company.

Q And did you work with other people at that location?

A Yes.

Q While working was the Sheppard case discussed to any extent, do you recall?

A Well, the only thing I can recall is one of the fellows--

MR. SPELLACY: Objection, your Honor.



MR. CORRIGAN: Not responsive.

THE COURT: Objection sustained.

Q Would you just answer the question yes or no, whether you recall?

A Yes.

Q When it was discussed was an opinion expressed by anyone as to the guilt or innocence of Doctor Sheppard?

A Not a definite opinion, no.

Q By not a definite opinion I take it then that there was some opinion expressed, is that correct?

A Yes.

Q Now, having heard this opinion did this leave any impression on your mind which would still remain there today?

A No.

Q Was this opinion expressed by anyone -- strike that. Do you recall who expressed this opinion?

A Yes.

Q Was he a supervisor or anything of that nature?

A No.

Q Was it anyone that you respect as authority?

A No.

Q Was it anyone that you give any special weight to their opinions?

A No.

Q So that you can then truthfully say that in 1954 you

had no opinion one way or the other as to the guilt or innocence of Doctor Sheppard, is that right?

A That's right.

Q Do you know the results of the trial that was held in 1954?

A The result?

Q Yes, whether or not Doctor Sheppard was convicted?

A Yes.

Q You know that he was convicted at that time?

A Yes.

Q Now, knowing that Doctor Sheppard in 1954, can you today under the Court's instruction that Doctor Sheppard is presumed innocent as he sits here, and until the State proves him guilty beyond a reasonable doubt, can you give to Doctor Sheppard this presumption of innocence?

A Yes.

Q You can completely set aside in your mind any effect that the first trial may have had, is that correct?

A Yes.

Q Now, you mentioned some members of your family are in law enforcement?

A No.

Q You made some statement regarding association with law enforcement officers?

A I know some. I am acquainted with them through their wives.

Q Are these close acquaintances?

A No, sir.

Q Have any of these acquaintances ever expressed an opinion to you regarding the Sheppard case?

A No, sir.

Q Now, should during the course of the trial, should you become a juror in this case, if during the course of the trial something is brought up which brings to mind other facts that you gained outside of this courtroom, whether it be from the newspapers or other means, could you set these other facts aside, and judge this case completely on the evidence that you garnered from the courtroom?

A Yes.

Q Now, you were asked a question on circumstantial evidence, and if the Court, as the Court will instruct you, that circumstantial evidence must not only point to the guilt of the defendant, but also exclude any reasonable hypothesis of innocence--

A I don't understand that.

Q The example was given to you of coming in in the morning and the sun was shining --

A Yes.

Q -- let's say you do come in in the morning in the sunshine and you were in the building all day, and at lunch time you go out and the street is wet --

A Yes.

Q -- now, to accept that this came from rain would be excluding that there were other reasonable answers for this wetness, possibly a water truck went down the road; so if we could use that example in turn, will you accept the Court's statement that circumstantial evidence must exclude all reasonable hypotheses of innocence --

A Yes.

Q -- do you understand that now?

A Yes.

Q Now, again, on the question of circumstantial evidence, you know from what you have read, and from what you have heard in this case, that Marilyn Sheppard was killed, is that correct?

A That's what -- that's what was stated.

Q You do know that?

A Yes, I know that.

THE COURT: Counselor, maybe at this time we should recess. It is a quarter of three.

Will you please be seated, gentlemen. Mrs. Manning, after our recess you will return to the witness chair for further questioning.

Ladies and gentlemen, and Mrs. Manning, as well, while we are away on our afternoon

recess you shall bear in mind that you shall not discuss this case or what little you know of it amongst yourselves.

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

We will stand recessed briefly.

(Thereupon a recess was had.)

THE COURT: Counselor Sherman, will you proceed?

By Mr. Sherman:

Q Mrs. Manning, just before we took our recess we were discussing circumstantial evidence.

In considering what we have discussed of circumstantial evidence, and also considering that you stated you knew Marilyn Sheppard was killed, and also you knew that Doctor Sheppard was in the home at that time --

A I didn't know that.

Q You did not know that?

A No.

Q If that were to be the case, will you consider that that is sufficient circumstantial evidence, that alone, to convict the defendant?

MR. SPELLACY: Objection.

THE COURT: Sustained.

Q Do you know of anything, Mrs. Manning, regarding the background of Doctor Sheppard?

A All I know he was a doctor.

MR. CORRIGAN: Objection. Not responsive.

THE COURT: Well, her answer may stand. Objection overruled at this point.

Q You know that Doctor Sheppard was or is a doctor, is that correct?

A Yes.

Q Do you know what kind of doctor he is?

A No.

Q Do you know the difference between -- or did you know that there exists medical doctors and osteopathic physicians, do you know that these two classes exist?

A Yes.

Q If the Court were to instruct you that as far as the State of Ohio is concerned, that a medical doctor and an osteopathic physician are on equal planes, would you accept that?

A As a doctor's rating, yes.

Q Now, should Doctor Gerber, the County Coroner, testify, would you give Doctor Gerber as the County Coroner, his testimony, any more weight than any other doctor, just be-



cause he is County Coroner?

A No.

Q You would judge him the same as any other doctor or physician, is that correct?

A Yes.

Q And the fact that he is a county official would not enter into it, that fact alone?

A No.

Q Now, you say you worked at Halle's at one time?

A Yes.

Q Do you know Mrs. Cowan, who is a prospective juror?

A No. I worked in the warehouse.

Q So you had no connection at all with her?

A I don't know where she worked.

Q Mrs. Manning, assuming this case is concluded and submitted to the jury, and you are a member of that jury, and after discussing and going over the evidence in your mind you feel that the defendant was not guilty beyond a reasonable doubt, that the State has not proved him guilty beyond a reasonable doubt, but you are in the minority of the jurors, would you change your position merely because you were in the minority?

A No.

Q Would you then be able to maintain your belief as long as you believed the State has not proved its case beyond a

reasonable doubt, even though the majority feels otherwise?

A Yes.

Q Now, Mrs. Manning, the Court will instruct you that the defendant need not take the witness stand, that he need not testify, and that you may attach no inference whatsoever to his failure to testify.

Now, would you accept this ruling from this Court?

A Yes.

Q Would you then if at the conclusion of the State's case, if Doctor Sheppard did not take the witness stand, and did not explain anything, could you then put aside any thought of guilt attaching because of not testifying?

A Repeat that?

Q If at the conclusion of all the State's evidence, Doctor Sheppard does not testify in his own behalf --

A Yes.

Q -- could you set aside in your mind any feeling of guilt, or -- strike that.

Would you have in your mind any feeling of guilt merely because Doctor Sheppard did not testify?

A No.

Q Mrs. Manning, knowing your frame of mind at this time, and your thoughts on the defendant, would you be willing to have a jury with your frame of mind try you as a defendant?

MR. CORRIGAN: Objection.

THE COURT: Objection sustained.

MR. SHERMAN: Pass for cause, your Honor.

THE COURT: Mrs. Manning, would you be kind enough to walk around, please, and take the chair next to Mr. Spinelli in the second row.

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