

THE COURT: Counselor Corrigan?

MR. CORRIGAN: May I suggest at this time a recess, your Honor?

THE COURT: Yes, it is a good idea.

Ladies and gentlemen of the jury, we will have our afternoon recess, which we customarily do. While you are away on this recess you will bear in mind the instructions given to you in detail, on each occasion when you have gone from this room, and that is you shall not discuss this case nor what you have heard 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 cause by any means of communication.

We will have our afternoon recess.

(Thereupon a recess was had.)

THE COURT: Ladies and gentlemen, for concluding argument for and on behalf of the State of Ohio, the Court will call prosecuting attorney John T. Corrigan. Counselor Corrigan.

- - -

CLOSING ARGUMENT BY MR. CORRIGAN

MR. CORRIGAN: May it please the Court, counsel for the defense, and ladies and gentlemen: At this time on behalf of Mr. Spellacy, may I extend to Mr. Bailey and Mr. Sherman our gratitude for the manner and way in which they conducted their business in defending their client.

I wish to extend to the Court our sincere gratitude for the judicious manner in which the Court has conducted this trial; and, ladies and gentlemen, certainly to you who have endured these many weeks with great patience, we extend our deepest gratitude, and we extend the gratitude of the people of the State of Ohio.

I do not feel that my remarks are going to be too lengthy. At the outset I think it is necessary that we visit the defense side of the case, and perhaps as good a place as any to begin in visiting the defense side of the case is with the statement that Mr. Bailey made, and that is that there was a filthy accusation made somewhere in this case.

In 1954 Marilyn Sheppard was murdered. But in 1966 in this room with the very first witness, the character and the reputation of Marilyn

Sheppard was put in issue in this trial. You remember the first witness, Mr. Jack Krakan.

Do you recall that he testified on two occasions he was at Marilyn's house and he saw an elderly gentleman there.

And on the second occasion he say Marilyn pass a house key to this elderly gentleman and make a comment something to the effect, "Don't let Sam know about it."

What could be the reason for bringing that testimony before this jury, other than to put in issue the reputation and make a filthy accusation as regards the character of Marilyn Sheppard?

The second witness, you will recall, was a Miss Post. Miss Post was a young lady who was employed for the sole purpose of covering the Sheppard case, and that is her testimony. She was employed in June of 1954 for the sole purpose of covering the Sheppard case.

The killing didn't occur until July. Some way, somehow or other she was employed in June for that sole purpose.

And she was brought on to tell us that Doctor Gerber had told her that it had to be a woman. This is part of the mystery with which we

find this case shrouded by virtue of the testimony and evidence coming from the defense.

It had to be a woman, said Miss Post, quoting Doctor Gerber. But she who was hired for this purpose of reporting the Sheppard case, and her editor, who was along with her, never saw fit to print or publish this scoop.

I don't think anything more need be said with regard to Miss Post.

Then we move on to the next witness, a Doctor Don. Doctor Don comes on for the purpose of adding further attack to the credibility of Doctor Gerber, when he says that in the month of June or thereabouts, the month preceding the killing of Marilyn Sheppard, that he met Doctor Gerber in the Cleveland Police Station, and Doctor Gerber said something to the effect that he was going to get those Sheppards.

Well, I wonder at this point, did Doctor Sheppard then go out -- or, did Doctor Gerber then go out and create the incident that occurred on the 4th of July, 1954, to get the Sheppards?

But Doctor Don was brought on for another reason. You see, the theory of the keys had now evaporated, it is gone, and now we move to the open

door policy. And Doctor Don is in and out of Doctor Sam Sheppard's house all hours of the night, many times a week, without the benefit of even making a courtesy telephone call to let him know he is coming.

You know, ironically, that telephone that was up on the stand between Marilyn and Sam's bed is never used for any purpose.

Doctor Don never called and presumably he should have called, if nothing more than extending a courtesy to Doctor Sam to let him know he is going to come out.

Then we have the boy, the young boy, by the name of Redinger, and he pretty much corroborated the testimony of Larry Houk with regard to finding the green bag.

If you will recall the testimony of Redinger, he said specifically I went over and I looked at that watch, and I was careful with regard to how I held it, and how I looked at it.

But when Mr. Bailey reiterated that testimony, Mr. Bailey reiterated it in this manner, showing the thumb over the crystal of that watch.

We know that Mary Cowan had indicated that she examined that watch thoroughly under a



light, under a microscope, to determine whether or not there were any prints, and then thereafter she would call in the fingerprint man for the purposes of lifting the print; but she found no prints on it.

Incidentally, Redinger volunteered something that I don't think was anticipated. You will remember that he said that he went over to Doctor Richard's house the day after the 4th of July or at best two days later, and who did he see but Doctor Sam walking around.

This is the man that was so sick when Doctor Elkins went in. Doctor Elkins saw fit not to perform a neurological examination. We look at the hospital report, and on page 10, and this is in evidence and will be with you upstairs, and we find here that the report is at 6:35 a.m. on the morning of July 4th, eye grounds clear; pupils react, and we find further -- pupils react to light and dark; reflexes within normal limits.

This is at 6:35 a.m. on July 4th, from the hospital report that was made in connection with the admittance of Doctor Sheppard as a patient.

We will talk a little bit more about Doctor Elkins in just a moment.

The next witness that came on was the dentist that had testified with regard to the chipped teeth in Doctor Sam's mouth. We won't refute this.

I believe that the teeth were chipped, and I believe Sam was injured, and we won't refute the fact that he was injured, but I will tell you how he became injured.

He wasn't as injured as we were led to believe initially by Doctor Steve Sheppard when the first thing he said, "Sam's got a broken neck," and then Elkins came in; Elkins did not perform a neurological examination on the 4th of July.

Subsequently Doctor Elkins did on the 6th of July look at some X-rays, and then Doctor Elkins said that he had a chipped cervical vertebra, but he was in doubt, because he asked for additional X-rays to be taken, and when they were taken the additional X-rays did not show that which was seen allegedly on the first X-ray.

But the first X-ray, you will recall, had an artifact in it. This was testified to by Doctor Foster, or the other doctor whose name escapes me, the radiologist.

MR. SPELLACY: Flick.

MR. CORRIGAN: Doctor Flick. You re-

member his testimony was definitely that that had an artifact and it was something artificial, it was something that showed, but in fact was not really there.

At this point, nevertheless, Doctor Elkins had formulated an opinion that there was a contusion of the spinal cord, and this is on the 6th of July.

But in the middle of August, because of the rapid recovery of Doctor Sam, he had changed his opinion and said that he had a concussion of the spinal cord, which was a milder type injury.

We don't refute this injury to Doctor Sam. I don't agree with -- I don't disagree with the dentist who said that his teeth were chipped.

When Marilyn Sheppard met her death, she didn't lay there and permit her assailant to bludgeon her into Kingdom Come. Her arms were flailing, as is indicated by the defense wounds she had on her hands, and her legs were kicking.

And it was the assailant, Doctor Sam, who forced those legs down under that crossbar, and in the course of doing so he got clipped and he got clipped good. These are where the injuries and the chipped teeth came from.

Unfortunately, Doctor Sam Sheppard had



the opportunity, privilege if you want to call it that, of casting the last blow.

The statement was made that nobody saw fit to take the blood type of Doctor Sam. Do you remember the testimony of Doctor Gerber? Doctor Gerber said that Sam refused to give him his blood type, or to permit the taking of blood for typing purposes. This is in the evidence.

Now, let's talk about Doctor Kirk. Doctor Kirk, I think, established two things; one, that in his opinion the slayer had to be wielding this instrument with his left hand, and the other was that a blood spot found in the room came from a source other than all the other blood spots. How did he do that?

Well, in January of 1955 he went in and he looked these blood spots over, and he apparently made that determination at that time, in part. But he was sold on the idea, he never bothered to remove those blood spots from the door, but he went back out to California and a month later had somebody else remove them and send them out to him in California. That is how much Kirk thought about those blood spots.

He had indicated that in his opinion

it came from a different source because of the amount, because of the size, and blood in that size couldn't easily travel that distance.

You will recall he was asked whether or not the assailant might step back from the assault, and render the distance between the door and the instrument that he was wielding a lesser distance, so that the blood spatter would not have to travel very far, and he agreed to that.

Ladies and gentlemen, you don't have to be an expert to know that when you inflict blows of the type that were inflicted in this instance, 25 of them, that between the first blow and the last blow there is congealing of blood. Pure blood is one thing. But congealed blood cast off an instrument is quite another thing.

But the impression that he wants to leave with you is -- and it was so argued -- that this came off the finger of the assailant.

Well, Marilyn had some pretty bloody fingers, too, and we know that those arms were flailing. Did the blood come off Marilyn's fingers?

But he goes further in attempting to tell us that this blood came from another source, and he says that he -- he determines this because of

the rate of agglutination.

Now, in its simplest term, what is this agglutination all about? As I understand the testimony, when you take two bloods that are of the same sort, and you bring them together, they mix, the cells within the blood form a pattern, and the pattern remains constant and under a microscope they mix in every sense of the word.

But when you take two different kinds of blood, and bring them together, they do not mix, but there is a lumping, instead of being in proportion to one another, the cells adhere to one another and there is a lumping. This is what agglutination is.

So he determined in making the test with regard to these two spots, that the agglutination, that is, when you add a foreign blood to the blood that you are working with, the agglutination was slower in one instance than the other; and for that reason, this then in his opinion led to the conclusion that the blood came from a different subject.

This is unsupported by any other scientific findings anywhere in the United States. So it is just his thinking. It is nothing more

than conjecture.

But we heard Doctor Marsters testify that with whole blood the rate of agglutination has nothing to do whatever with the typing of the blood, and whole blood is much easier to work with than is dry blood.

But we don't even have to go to Doctor Marsters. We can go to the testimony of Doctor Kirk himself.

You will recall I asked him, "Doctor, do you know of any instance where the blood coming from the same subject, deposited upon a piece of fabric, and then a test is made from two different portions of that fabric, that the rate of agglutination is different?" and he said yes.

Now, he said with regard to the assailant being, using the left hand, he predicated this on the pattern of blood on the walls.

Now, if you will imagine, ladies and gentlemen, if this is the foot of the bed and Marilyn's feet are hanging over this bed under the bar here, and this is the head of the bed here, and the assailant is standing generally in this position here, with Marilyn pulled down half way on to the bed, the body of the assailant is going

to block the blood from going generally in this direction.

But if he is working her over in this fashion here, with his right hand, you are going to get blood here and blood here; and he is going to work her over with backhands as well as straight forward swings.

We know that these swings were low because there was no blood on the ceiling.

And we know, too, that the greatest number of blows were inflicted on the left side of her head, which would give an indication that this was where the blows came from, rather than turning around this way, and if it was done with the left hand there would be blood in this pattern here.

I say that his pattern supports the theory that somebody did it with the right hand. But I don't care whether they did it with the right hand or the left hand.

In the course of inflicting this death upon Marilyn, there is no question but that she defended herself, her arms were flailing as well as her legs.

And when the assailant goes after her, he has got to hold those legs down, he has to hold



the arms down. He is using both arms, the right arm and the left arm, regardless of what he might naturally be.

Now, we have some testimony about the watch, and argument that the watch had to be broken by the assailant pulling the watch off.

I wonder if maybe Marilyn caught on to this watch while she was defending herself; she certainly could have, but we don't know whether or not this watch was broken a month before or a year before. There is no evidence, and nobody took this witness stand and testified --

MR. BAILEY:	I object.
THE COURT:	Overruled.
MR. CORRIGAN:	--there is no evidence

that this watch was broke, on that specific occasion.

Now, something was said about the key chain. Remember the testimony of Patrolman Gareau. Gareau said that when they went to the hospital they questioned Doctor Sam, and Doctor Sam said he was wearing this key chain.

If you have it in your pocket, like this, this isn't wearing it. How do you wear a key chain? You wear a key chain by either putting it on one of these loops that hold the belt, or by putting that on the loop within the belt itself.

And if somebody ripped this off of Doctor Sam, wouldn't they either rip the loop or rip the metal loop on the key chain? But you will find them all intact. Another part of the story that doesn't jibe.

While we are talking about the belt, the question is asked why no blood on the belt? When the assailant is working over Marilyn Sheppard, he of necessity is bent forward a little bit, you bend at the waist, and what happens to the belt when you bend at the waist? The shirt covers the belt. Quite obviously there would be no blood on the belt, because the blood doesn't stand out. It becomes covered.

And what do we find with regard to the pants? Mary Cowan had testified that there was reddish brown splatters in this area of the pants, and they showed up under the luminol test that was made, and because of the washing and the water, the benzidine test did not react positive for blood.

It is argued that why would Sam Sheppard wipe up the furnishings in his own home, because his fingerprints have a right to be all over the house.

This we will concede, except wouldn't it be strange, ladies and gentlemen, if we went to each one of those drawers and alongside of the drawers that were pulled out, we find Sam's prints on the first drawer, on the second drawer, on the third drawer, wouldn't it be peculiar if we found Sam's prints on the trophies, on the metal box, and on the furnishings? In these areas wherein there is some reason to suspect something.

And if we found Sam's and nobody else's, then the story about somebody else being in there would be a little bit difficult to buy, wouldn't it?

And as far as the wiping is concerned, I think there is no question about these things being wiped up.

It had occurred to me that women sometimes when they go to bed in the evening, after entertaining guests, they will clean up the house, they will wipe up the dust, but they won't go into the den and wipe off trophies and they won't go into the den and wipe off their husband's tool box. That isn't reasonable.

Oh yes, look at the tear on the pants. It isn't the pocket that is torn. It is outside

the pocket that is torn. I submit no relationship to the key chain whatever, and the inference that you would draw from that that somebody pulled that off of Sam.

Ladies and gentlemen, things can be coincidental. Things can point in a direction and not be in the true direction once, maybe twice, maybe three times, maybe four times.

But when we think in terms of the T-shirt, when we think in terms of the watch, and the watch with splatters on it, and you don't need any expert to tell you that that watch was worn by the assailant that particular night, and that is the watch that the Aherns put on the wrist of Doctor Sam when he went to bed that night, on that cot, and that is the watch that Doctor Sam told us he had on when he took Marilyn's pulse at the neck.

The watch tells more than the time. The watch clearly tells who the murderer of Marilyn Sheppard is. And this is corroborated by the wiping. It is corroborated by the jacket, by the blood on the pants, by the tear in the pants, and it is corroborated, ladies and gentlemen, by the fact that this defendant here, in talking

to Mayor Houk, said to him something to the effect, and you will remember the testimony, "They are trying to pit us against one another; let's be careful."

What kind of an irrate husband is it, or a widower, whose wife has been bludgeoned to death, who goes to somebody and says, "They are trying to pit us against one another, let's be careful"?

If this isn't the fingerprint of guilt, I don't know what it is.

Ladies and gentlemen, I ask you, also, with regard to the question of motive which was brought up by Mr. Bailey in his argument, go to that written statement, State's Exhibit 27, I believe, read it, and you will find the motive for the slaying in that statement.

And I say to you ladies and gentlemen, bring back a verdict consistent with the facts in this case, a verdict that will tell Sam Sheppard that he can't hide from the truth, and the would-be Sam Sheppards that would be among our midsts in the future also cannot hide from the truth.

Thank you kindly for your attention.

Thank you.