

THE BAILIFF: Mrs. March, if you will, please, take the witness box and be seated.

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

THE COURT: Is it Mrs. March?

MRS. MARCH: Yes.

THE COURT: Mrs. March, you spell your last name M-a-r-c-h?

MRS. MARCH: Right.

THE COURT: Mrs. March, the lawyers are going to be asking you some questions, questions which they are obliged by law to ask you.

Now, in making your responses to those questions, will you keep your voice at a pitch and a point where each person in this room can hear you, will you do that?

MRS. MARCH: Yes.

THE COURT: You have got to do better than that.

MRS. MARCH: I will try.

THE COURT: Mr. Romito, the

court reporter, he must record all of the responses which you make to these questions which will be put to you by counselors, and a nodding of the head one way or the other is not sufficient. It must be an audible response so that Mr. Romito can put it in the record; you understand that, don't you?

MRS. MARCH: Yes.

THE COURT: Now, you will bear in mind, Mrs. March, that when you respond to these questions that you are under oath, you understand that, do you not?

MRS. MARCH: Yes.

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

MR. SPELLACY: If it please the Court.

VOIR DIRE EXAMINATION OF SARAH K. MARCH

By Mr. Spellacy:

Q Mrs. March, may we have your full name for the record?

A Sarah Katherine March.

Q Where do you live?

A 3706 West 179th Street, Cleveland.

Q You are married?

A Yes.

Q Your husband's name?

A James.

Q What type of business is he in?

A He works for Ohio Service Employees.

Q What does he do there?

A They represent companies and workmen on unemployment compensation.

Q How long has he been with this company?

A Seven years.

Q Prior to that what type of work did he do?

A He owned a moving company.

Q How long was he in the moving business?

A Oh, about three years.

Q How long have you lived at the address -- is it West 179th Street?

A Yes.

Q How long have you lived there?

A Fifteen years last May.

Q Fifteen years?

A Yes.

Q Do you have a family?

A Yes.

Q May we have the names and ages of your children?

A Anne, she is twenty. Rita and Kathy are thirteen,

and Jenny is twelve.

Q Are they all living with you in the home?

A Yes.

Q Are they in school?

A Yes, well, the oldest is working.

Q Where does the oldest daughter work?

A Sohio, downtown.

Q What type of work does she do there?

A Stenographer.

Q Approximately how long has she worked there?

A Since January.

Q The other children are in school?

A Yes.

Q Where did they go to school?

A Our Lady of Angels.

Q That is on Rocky River Drive?

A Right.

Q Are you from the Cleveland area, Mrs. March?

A No, I am not.

Q Where are you from?

A Mississippi.

Q What part of Mississippi?

A A small town near Natchez.

Q How long have you lived in the Cleveland area?

A Since '46, 1946.

Q We are asking these questions not to pry into your private affairs, but to obtain a jury that will be fair to both sides.

Now, you understand this is the case of the State of Ohio versus Sam Sheppard, you understand that?

A I am sorry, I didn't understand you.

Q Do you understand that this is the case or we are examining jurors with regard to the case of the State of Ohio versus Sam Sheppard?

A Yes, I do.

Q I ask you if you have read anything about this particular case at any time?

A Oh, yes.

Q When was it that you read about this particular case?

A Well, I have read headlines off and on for the last -- since it started.

Q Where were you living in 1954?

A At the present address.

Q On West 179th Street?

A Yes.

Q As a result of having read about this case, have you formed or expressed an opinion about it?

A Well, I don't think honestly, no.

Q Are you able if selected as a juror to decide the case with a fair and open mind?

A Yes.

Q Based solely on the facts here that are presented here in this courtroom?

A Yes.

Q Now, the fact that you have read as you have indicated headlines, would not preclude you from serving as a fair and impartial juror, is that correct?

A No.

Q Have you read about this case recently?

A I have seen the headlines but I haven't read it.

Q My same question that anything that you read recently, would that prevent you from being a fair and impartial juror?

A No.

Q Have you read anything other than newspapers with regard to this case?

A No.

Q Have you had prior jury service, Mrs. March?

A No.

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

A No.

Q You understand that if selected as a juror in this case that you would be one of the triers of the facts?

A Yes.

Q That that is the duty of the jury, to determine the facts in this case?

A Yes.

Q No one else can tell you what the facts are?

A No.

Q You have to arrive at the facts from the witnesses who testify here, you have to evaluate their testimony and then arrive at what the true facts in the case are, you understand?

A Yes.

Q And you do that by sizing up the witnesses, by observing their demeanor, their candor, their believability, their credibility, and you size them up and you accept all of what they say, part of what they say or none of what they say; do you understand that?

A Yes.

Q That is your prerogative, really, as a juror?

A Yes.

Q Now, however, at the conclusion of the case after all the evidence is in, Judge Talty will give you instructions of law, and as a juror you are obliged to take the law that Judge Talty gives to you, understand that?

A Yes.

Q Because we all have our own ideas of what the law is or what it might be or what it should be, and if we had twelve jurors who applied twelve different principles of

law, we just wouldn't be able to do anything.

So it is incumbent upon you to take the law that Judge Talty gives to you, do you understand that?

A Yes.

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

A Yes.

Q And could you afford this presumption of innocence to this defendant?

A Could I assume him innocent until proven guilty?

Q That is correct.

A Yes.

Q There is a presumption of innocence that attaches to every defendant, understand?

A Yes.

Q And you would follow the Judge's instructions on this portion of the law?

A Yes.

Q Now, I also anticipate that Judge Talty will tell you that there are various types of evidence that are allowed in a criminal case, what we refer to as direct evidence, that is, from a witness who actually saw something or heard

something, or circumstantial evidence from which you as a juror may infer a fact from what you have heard from a witness, and in fact would logically and naturally follow from what you heard, that is what we mean by circumstantial evidence.

Now, an example of that that is often used, assuming when we came in the building this morning that the temperature was in the 70's, the sun was out, the streets were dry, the grass was dry, the trees were dry, and we didn't have occasion to look out the building until we went out on our noon recess, and when we went out, the sun was out but the grass was wet, the trees were wet, the puddles were on the sidewalk, the buildings were wet, we could reasonably infer from that set of facts that sometime between when we came in the building and when we went out, that it had rained, understand?

A Yes.

Q This is what we mean by circumstantial evidence.

And if Judge Talty were to tell you that circumstantial evidence properly proven is just as good and just as binding as direct evidence, would you be able to follow that instruction?

A Yes.

Q Do you have any close friends or members of the family that are police officers or associated with the County

Coroner's Office?

A Well, my husband works for a lawyer.

Q He works for a lawyer?

A Yes.

Q Is your husband a lawyer?

A No.

Q Your husband works in the Workmen's Compensation field, is that correct?

A Yes.

Q This goes back to what we asked you before, if you were able to take the law as given by Judge Talty, I suppose on occasion you talked with your husband about principles of law, and so forth?

A Yes.

Q And this probably would be in the Workmen's Compensation field most likely, is that right?

A Well, he also went to law school.

Q He went to law school?

A Yes.

Q For how long did he go to law school?

A He graduated.

Q He graduated from law school?

A Yes.

Q Where did he go to law school?

A Marshall.

Q Cleveland Marshall. What year did he graduate from Cleveland Marshall?

A I believe it was in '63, 1963.

Q 1963?

A Yes.

Q As a result of discussing these principles of law with Mr. March, would this prevent you from being able to follow the law that Judge Talty gives to you here?

A No. It would help.

Q We can't draw upon our experiences either. We must take the law that Judge Talty gives to you.

A Right.

Q And only that law.

A Right.

Q You can't, you are not allowed as a juror to draw upon any principles of law that you may have learned or heard elsewhere.

A Yes.

Q Understand?

A Yes.

Q You are only to confine yourself to the principles of law that Judge Talty gives to you, could you do that?

A Yes.

Q Now, when Judge Talty instructs you as to principles of law, I anticipate that he will tell you, instruct you

as to the definition of intent, that one is presumed to intend the natural and probable consequences of his voluntary acts.

If I were to stand here and tear a sheet of paper off this pad and roll it up into a ball and throw it up against the window, I wouldn't expect the window to break.

But if I were to pick up a rock and throw the rock against the window, the natural and probable consequence of my throwing the rock, the window would break, and I would be responsible for it.

Understand that?

A Yes.

Q And if Judge Talty were to tell you that one intends the natural and probable consequences of his voluntary acts, would you follow that instruction of law?

A Oh, yes.

Q I might go back to the question I asked you before about police officers. Do you have any friends who are police officers?

A No. No close friends, no.

Q Pardon me?

A No close friends.

Q Any acquaintances?

A Yes.

Q Are they neighbors?

A No.

Q Have you ever discussed police work with them?

A No, sir.

Q It is anticipated that police officers will probably testify here, and Judge Talty will instruct you that you are to weigh their testimony just as you would any other witness, and not to give them any greater or any less credence or believability, merely because they are police officers, would you be able to follow that instruction of law?

A Yes, sir.

Q In other words, to size them up just like any other witness.

It is anticipated that members of the County Coroner's Office; doctors, will testify here, and would you follow those instructions with reference to the doctors that testify here, that you would size them up just as you would any other witness?

A Right.

Q And apply the same standards?

A Yes.

Q Do you know anything about Bay View Hospital?

A No.

Q Do you know anyone connected with Bay View Hospital?

A No.

Q Did I ask you if you were employed outside the home?

A No, you did not, and I am not.

Q Have you ever been?

A About twenty years ago.

Q What type of work was that?

A Red Cross.

Q Do you know any of the people or any of the people or any of the members of the County Prosecutor's Office?

A No.

Q Do you know Mr. Bailey?

A No.

Q Or Mr. Sherman?

A No.

Q Or do you know anybody in the Sheppard family?

A No.

Q I also anticipate going back to the principles of law that Judge Talty would instruct you that biases, prejudices, or sympathies, have no part in the trial of a lawsuit; understand that?

A Yes.

Q And that you are to confine yourself only to the facts as they are presented here in this courtroom?

A Yes.

Q Judge Talty will also instruct you that penalty or punishment, if there is to be any at all, is not to be a concern of the jury, that penalty or punishment, if there

is to be any at all, is solely within the discretion of his Honor Judge Talty, do you understand that?

A Yes.

Q And if selected as a juror, you would abide by this instruction of law, is that correct?

A Yes.

Q And decide this case solely on the facts that are presented here in this courtroom?

A Yes.

Q And separate any other considerations you might have?

A Yes.

Q Mrs. March, is there anything you can think of that would prevent you from being a fair and impartial juror in this case?

A No.

Q You could be fair to both sides, both to this defendant as well as to the people of Ohio?

A Yes.

MR. SPELLACY: Thank you very much.
The State will pass for cause.

THE COURT: Counselor Bailey or
Sherman?

MR. BAILEY: If the Court please,
do you wish to begin before the recess?

THE COURT: Thank you, Counselor.

Ladies and gentlemen, we have reached the point where we should have our recess. It is after 10:30.

Mrs. March, will you stay where you are, please.

Ladies and gentlemen of the jury, or, the prospective jury, while you are away on your morning recess, you shall bear in mind the instructions given you on each occasion when you leave this room.

You shall not discuss this case even amongst yourselves. You shall not permit anyone else to discuss it with you.

You shall not permit yourselves to overhear anything that relates to this case by any means or media of communication.

We will have our morning recess.

(Thereupon a recess was had.)

THE COURT: Counselor Bailey
or Sherman?

VOIR DIRE EXAMINATION OF SARAH K. MARCH

By Mr. Bailey:

Q Mrs. March, did you subscribe to any Cleveland newspaper in 1954?

A Yes.

Q Which papers were those?

A The morning paper.

Q The Plain Dealer?

A Yes.

Q And did you read it daily?

A Yes.

Q What about the Cleveland Press, did you read that at all?

A No.

Q The Cleveland News?

A No.

Q When the murder of Marilyn Sheppard occurred, did you follow the news accounts as to what the authorities were doing, information about the family, that sort of thing?

A Yes.

Q And you learned at some point they had arrested Doctor Sheppard?

A Yes.

Q And later he was indicted?

A Yes.

Q And put on trial?

A Yes.

Q And you read about the result of that trial?

A Yes.

Q I believe you said earlier at some point you did have an opinion, is that correct?

A Honestly, I don't have an opinion. I am sorry, you

Q I am sorry, you never have had an opinion in this case?

A That's right.

Q Did you ever engage in discussion with your husband about the case?

A Oh, yes.

Q Did he ever express an opinion to you?

A No.

Q At the time this original trial took place, would you say that there was a sincere question in your mind as to whether Doctor Sheppard was guilty or innocent?

A I really didn't give it much thought.

Q You didn't give it any thought?

A No.

Q Did you ever express any opinion to anyone else?

A To anyone else?

Q Yes.

A Again, I say honestly, no.

Q Were you aware back then of any sympathy for or antipathy toward Doctor Sheppard?

A No.

Q Do you remember reading anything about his personal

life or background?

A I must have read it but I can't recall anything right now.

Q Did you read that he was a doctor?

A Oh, yes.

Q Do you know what kind of doctor he is?

A Yes.

Q What kind?

A Osteopath?

Q Do you know what an osteopathic doctor is?

A No, I couldn't describe it.

Q Do you have a family physician yourself?

A Yes.

Q Is he a medical doctor?

A Yes.

Q If testimony were given on the point, let's say expert medical opinion given on the one hand by a medical doctor, and contradicted on the other hand by a doctor of osteopathy, would you accord less weight to the doctor of osteopathy, simply because he was not a medical doctor?

A No.

Q Then if the Court instructs you that a doctor of osteopathy and a medical doctor are on the same level, they both have the same qualifications and license in the eyes of the law, would you be able to accept that?

A Yes.

Q Do you recall Judge Talty instructing you before we began the examination of the jurors, that the defendant was presumed to be innocent?

A Yes.

Q Do you feel that you can give him the benefit of natural presumption of innocence at this very moment?

A Yes.

Q And if you are told by the Court that the fact that there was an arrest and indictment, are no indication whatsoever that he is guilty of anything, can you accept that?

A If I am told by the Court?

Q Yes.

A Yes.

Q If you are told by the Court that the fact that he was tried originally and convicted, and the conviction has been set aside by law, all of that is meaningless as far as his guilt or innocence of this charge is concerned, will you be able to accept that?

A Yes.

Q Mrs. March, if in the course of the trial, something should happen, some testimony should be given that would recall to your mind information about the case, something you may have heard in the past, which never appears in evidence, never comes out of that witness chair, but you

still remember, do you think you could sufficiently discipline your mind to put that information completely aside and consider only the evidence that is admitted by Judge Talty?

A I would have to.

Q And you anticipate you would have no difficulty psychologically in accomplishing that?

A No.

Q If it becomes appropriate at the conclusion of the evidence when the law is given to you by the Court, that is, the rules that you must apply in arriving at a verdict based upon the facts which you have decided are true or not true, the Court instructs you that the silence of the defendant is his right, and that it may not be used by you as any indication whatsoever that he has done anything or hiding something, or guilty of anything, do you think that you could abide by that instruction and not consider against Doctor Sheppard his failure to testify?

A Yes.

Q Now, counsel for the State put to you a situation involving what was presumed to be rain, based on your observations before and after leaving the courtroom, and I believe you agreed that a proper inference under the circumstances when the streets, and so forth, were all wet when you went out, would be that it had rained.

Now, assuming these facts, Mrs. March, if when you

went outside and the streets and the buildings and the trees were all wet, and your first thought was rain, and somebody said, "No, somebody came down here with a fire hose and sprayed down the area," would you be able to listen to that, listen to other explanations of the fact that the streets were wet, with an open mind; do you understand my question?

A You mean to make a decision why they were wet, would I be able to listen to others?

Q Surely.

A Yes.

Q In other words, if a set of facts or observations came to your attention, gave you an initial impression, would you nonetheless be able to listen to with an open mind other explanations for that same set of facts?

A Yes.

Q I don't recall whether you were asked by anybody whether if the Court tells you that circumstantial evidence to prove a fact can be every bit as good as direct evidence, every bit as good as eye-witness testimony, that you would accept that instruction?

A Yes.

Q And that you would be able to find facts from circumstantial evidence, if properly proven?

A (witness nods.)

Q If you are also instructed that where circumstantial

evidence is used, you must before you can find a man guilty based on circumstantial evidence, you must find from all the facts and circumstances that they point only to him, not in two directions or three directions or at somebody else, but only to him, and that that is a necessary prerequisite to a conviction on circumstantial evidence, can you abide by that instruction of the Court?

A I hate to make you repeat it, but I don't know if I quite understand what you mean.

Q All right; it is and will be a complex instruction, but important.

Where circumstantial evidence is used, Mrs. March, a special rule, you will be permitted by the Court to take the facts which have been proven and which you are satisfied are true, and to draw from them an inference, if in your common every ordinary day sense and judgment that inference seems to follow naturally from the facts that are proven, but applicable to this kind of evidence, circumstantial evidence, as against direct evidence, you will be given a special rule that if the circumstances, these facts which you are satisfied are true, do not point at guilt, at the defendant's guilt, and only at the defendant's guilt, you must acquit him, that is the essence of it; do you understand that?

A Yes.

Q Would you be able to follow that instruction?

A Yes.

Q Now, I assume that in all that you have read and heard, you have heard people talk about this case, that you have heard of the fact that Doctor Sheppard was accused of this killing?

A Yes.

Q Have you ever heard of anyone else being accused?

MR. CORRIGAN: Objection.

THE COURT: Objection sustained.

Q If the defense, Mrs. March, presents its own circumstantial evidence pointing to another as the perpetrator of this crime, can you listen to that evidence with as open a mind as you are able to listen to the evidence for the State?

A Yes.

Q Do you feel, Mrs. March, that despite anything you may have heard or learned or from time to time thought about this case, that you can give Doctor Sheppard, as well as the State, of course, a fair and impartial trial all the way through?

A Yes.

Q Do you know of any reason why you ought not to sit as a juror in this case?

A No.

MR. BAILEY: Pass for cause.

THE COURT: Mrs. March, would you be good enough, please, to take the chair in -

the second row immediately next to Mrs. Grodzinski.

May I see Counselors, please?

Ladies and gentlemen of the prospective panel, you have heard many and varied questions put to you by Counselors for both parties, and some questions put to you also by the Court, in the course of your examination here as prospective jurors in this case.

After hearing all of these questions and listening to the responses to them, does any reason now occur to any one of you why you could not sit as a fair and impartial juror in this cause, if sworn as a juror in this cause?

Now, if any of you respond to that, to the effect that you now feel that you cannot sit fairly and impartially and be a fair juror in this cause to both sides, I wish that you would respond by raising your right hand.

Seeing no response by such an indication, or hearing no response, the Court will ask the bailiff to get the remaining prospective members here for further instructions, please.

Be at ease, ladies and gentlemen, while we are getting the rest of the jurors.

(Thereupon the balance of the prospective jury

panel was brought into the courtroom.)

THE COURT: Thank you, gentlemen.
Ladies and gentlemen of the prospective panel,
we are going to recess now for lunch.

We are going to have a long luncheon recess. We will recess for lunch from 11:15 to approximately 1:30, when you will be expected to report back here.

While you are away on this luncheon recess, you will observe the instructions given to you on each occasion when you have gone from this room, and that is, you shall not discuss this case or what little you have heard of it, even amongst yourselves.

You shall not permit anyone else to discuss it with you. You shall not 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 an adjournment was taken to 1:30 p.m., Wednesday, October 26, 1966, at which time the following proceedings were had:)