

is unable to complete the service.

You understand that, do you not, sir?

MR. AINSLEY: Yes, sir.

THEREUPON, JACK AINSLEY, a member of the prospective jury panel, having been previously sworn, was examined and testified on voir dire as a possible alternate juror, as follows:

THE COURT: Mr. Ainsley, the lawyers are going to put questions to you along the line of determining your background to determine your qualifications to sit as a prospective member of this panel.

In responding to these questions, sir, you will keep your voice at a point so that each person in the courtroom may hear your responses, and so that Mr. Romito, who sits before you, our court reporter, can report your responses in the record.

And remember in giving your answers, sir, that you are under oath.

Now, Counselor Corrigan or Spellacy?

MR. SPELLACY: If it please the Court.

VOIR DIRE EXAMINATION OF JACK AINSLEY

By Mr. Spellacy:

Q For the record, sir, would you please give us your full name?

A My full name is Jack Ainsley.

Q Would you spell your last name, please?

A A-i-n-s-l-e-y.

Q Where do you live, sir?

A I live in Cleveland at -- the specific address is 3389 Rocky River Drive.

Q That is in the city of Cleveland?

A It is within the bounds of Cleveland, yes.

Q Would that be in the Kamms Corner area?

A It is in the Kamms area, yes.

Q How long have you lived there, sir?

A I have lived there now for approximately eleven months.

Q Prior to living --

A I beg your pardon. For approximately thirteen months.

Q Prior to living on Rocky River Drive there, where did you live, sir?

A Prior to that time, I owned my own home in Cleveland Heights, at 3978 Delmore Road.

Q How long did you live in Cleveland Heights?

A I lived there for seven years.

Q Prior to living on Delmore in Cleveland Heights, where did you live?

A Prior to then, I lived for nine years in the old Brooklyn section of Cleveland, at 3311 Ruby Avenue.

Q And did you live there, sir, in 1954?

A Yes, I did.

Q Are you married, sir?

A I am single.

Q What is your employment?

A I work for Eastern Greyhound Lines, in the general offices here in Cleveland, as a rate clerk.

Q How long have you been employed by Eastern Greyhound Lines?

A I have been employed by Eastern Greyhound Lines for fifteen years.

Q Prior to working for Eastern Greyhound Lines, what type of work did you do?

A Prior to Eastern Greyhound Lines and immediately following my army service, I worked for the Osborn Manufacturing Company.

Q What did you do at Osborn Manufacturing Company?

A I was a laboratory technician.

Q How long did you work for Osborn as a laboratory technician?

A For approximately two years.

Q What type of work did you do as a laboratory technician?

A It was experimental work, actually, in product development. Osborn manufactures industrial brushes, and our work was to work in conjunction with the sales department in solving industrial problems.

Q Problems that the buyer might have, is that right?

A That's right. It was in conjunction with sales and the customer.

Q Mr. Ainsley, you understand that this is the case of the State of Ohio versus Sam H. Sheppard?

A Yes, sir.

Q I will ask you, sir, if you read anything about this case at any time, or did you hear anything about it, answer yes or no, if you can?

A Yes.

Q When was it that you read something about it?

A Well, of course, the immediate reading, of course, was in the newspapers.

Q Was that in 1954?

A At the time of the original trial in 1954.

Q Now, did you follow it -- I will rephrase the question. Did you read about it in the newspapers?

A Yes, I did.

Q And did you follow it closely in the newspapers, yes or no?

A I would not say that I followed it closely. I followed it in a sketchy sort of way.

Q As a result of having read about it in the newspapers, did you come to any opinion with regard to this matter, yes or no?

A Yes, I did.

Q Did you have occasion to discuss this opinion with anyone, yes or no?

A Yes, I would say I did.

Q Have you read about this case recently in the newspapers, yes or no?

A Not to any great extent.

Q Well, you have something about it?

A Oh, yes, yes, I have.

Q As a result of having read something recently, have you formed an opinion with regard to this matter, yes or no?

A No.

Q Now, sir, today do you have an opinion with regard to this matter, yes or no?

A It is difficult to answer yes or no. Perhaps, yes.

Q Sir, is this an opinion that you would be able to set outside your mind, if selected as a juror in this case, and decide the case only on the evidence presented here in this courtroom, yes or no?

A Yes.

Q You would be able, then, as a juror to forget about anything you might have read in this matter, and if selected as a juror decide the case only on what you hear here in this courtroom, is that correct?

A I would say yes.

Q Now, you indicated before that you had an opinion; would this opinion prevent you from being either fair to this defendant, or to the people of Ohio, yes or no?

A I would say no.

Q So that if selected as a juror, you could, once again, set aside the opinion that you had, and decide the case only on the evidence presented here in this courtroom, forgetting about all else that transpires outside this courtroom, is that correct?

A Yes.

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

A No, I have not.

Q Have you read any magazines or books?

A No, sir.

Q Have you had prior jury service, Mr. Ainsley?

A No, I have not.

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

A No, I have not.

Q Do you know if any members of your family have ever been witnesses in any kind of a case?

A Not that I recall, sir.

Q Sir, are you native to the Cleveland area?

A I was born and reared in Cleveland.

Q And did you go to school in the Cleveland area?

A Yes, I did.

Q Where did you go to school?

A Well, I went to Mill Elementary School, and also to Lincoln High School.

Q What years did you go to Lincoln High School?

A During the years 1937 through 1942.

Q Mr. Ainsley, you understand that it is the duty of a juror to be the triers of the facts; as a juror you and you alone determine what the facts of the case are, and you do so by listening to the witnesses who testify in the chair that you are sitting in now, and you size them up, and you observe their demeanor, their candor, and in essence you arrive at their believability, and you do that by using your everyday experiences such as you use when you meet someone at work for the first time, or you might meet someone on the street, you size them up, and you can accept all of what they say, part of what they say, or none of what they say. That is your job as a juror.

Equally important you must take the law that Judge Talty gives to you, and apply that law to the facts as you find the facts to be.

You see, at the conclusion of the case Judge Talty will give to you definitions of law, and you are obliged as a juror to take that law and apply that law to the facts as you find the facts to be.

Could you do this if selected as a juror?

A Yes, I could.

Q You are then to disregard any ideas you might have as to what the law is or what it might be, or what it should be, and take the law that Judge Talty gives to you; could you do that?

A Yes, I could.

Q Under our system of justice the defendant is presumed to be innocent until proven guilty.

The law places upon the State of Ohio the burden to prove him guilty beyond a reasonable doubt.

Will you follow the instruction of Judge Talty as to the definition of reasonable doubt?

A Yes, I would.

Q Judge Talty will also tell you that there are various types of evidence in a criminal case, referred to as direct evidence, and what we refer to as circumstantial evidence.

If Judge Talty were to tell you that circumstantial

evidence properly proven is just as good as direct evidence, would you follow that instruction of law?

A Yes, I would.

Q Do you know where Bay View Hospital is, Mr. Ainsley?

A Yes, I do.

Q Have you ever been to Bay View Hospital?

A No, I never have, beyond driving past the place.

Q You know where it is by virtue of driving past it on Lake Road, is that correct?

A Yes, that's true.

Q Do you know anybody connected with the County Prosecutor's Office, Mr. Ainsley?

A No, I do not.

Q Do you know any members of the Cleveland Police Department?

A I do not.

Q Do you know any of the Sheppard family?

A I do not.

Q Do you know Mr. Russell Sherman?

A No, I do not.

Q Do you know Mr. Lee Bailey?

A No, I donnot.

Q It is anticipated that police officers will testify here, and Judge Talty will tell you that in weighing the testimony of police officers you shall not give them any

greater weight or any lesser weight, solely because they are police officers.

Would you follow that instruction?

A Yes, I would.

Q That you are to weigh the police officers, in fact, all witnesses just as you would any other witness, could you do that?

A Yes, I could.

Q Is there any reason that you can think of why you could not be fair and impartial to both this defendant as well as to the people of Ohio in this case?

A No, there is not.

MR. SPELLACY: Pass for cause.

THE COURT: Counselor Bailey
of Sherman?

VOIR DIRE EXAMINATION OF JACK AINSLEY

By Mr. Bailey:

Q In 1954, Mr. Ainsley, did you subscribe regularly to any publications?

A Yes, I was a subscriber to Time Magazine.

Q How about newspapers?

A No.

Q Was it your custom during that period of time to pick up a newspaper to or from work, on the way?

A Yes, it was, and it still is.

Q Did you ordinarily pick up a newspaper after work and read it on the way home or when you got home?

A Yes.

Q I take it that that newspaper was the Cleveland Press?

A No, I would not say so. Actually, I read the Plain Dealer much more than I do the Press. My interest in news I think tends a little bit more towards the national and international affairs than stories of crime or gossip, and so forth.

Q Did you read the Press at all in 1954, if you can recall?

A Yes.

Q And the Cleveland News?

A Yes.

Q And the Plain Dealer?

A Primarily the Plain Dealer.

Q Of course, any newspapers that you picked up on the way home from work would be the Press or the News, would it not?

A Yes.

Q Do you recall reading headline stories about the Sheppard case?

A Yes.

Q Do you recall reading the front-page stories, that is,

where the text appeared on the front page in one or more columns about the Sheppard case?

A Yes, sir.

Q Would you say that you followed those accounts or at least read them through when they appeared on the front page?

A I would say that I read them in a passive sort of way. I certainly don't feel that I read them very closely.

Q Do you recall reading editorials that were printed on the front page?

A Yes, I do.

Q The ones that you read I take it, were those that appeared on the front page of the Cleveland Press, if you recall?

A Yes, yes.

Q Now, without going any further than yes or no, can you tell me whether or not it is a fact that at the time you read those editorials, you were in concurrence with the point they were making or trying to make?

A Yes.

Q When were you first conscious of having an opinion on the merits of the Sheppard case, would you say it was right after the murder occurred, or after the defendant was arrested, or after the trial began, or when it ended, or just when, just the time?

A I would say approximately, certainly not right after

the murder. I would say after the -- after having read what I did read of it.

Q So it was the information in the newspapers that enabled you to formulate this opinion, the facts that you read in the papers?

A Yes.

Q Did you follow the accounts on radio?

A Not to any great degree.

Q How about television?

A Not to any great degree.

Q Now, did the editorial thrust of the things that you read in the Cleveland Press, in particular, have any part in enabling you to formulate an opinion that you arrived upon?

A It is difficult to say, but it is possible.

Q I take it that when you had this opinion it was predicated on certain facts that were reported and that you accepted as true?

A Yes, I would say so.

Q In other words, you never had any first-hand knowledge of this case?

A No.

Q From personal experience?

A No.

Q It all came through the newspapers, is that right?

A Yes.

Q Just yes or no, do you have any recollection of what some of those facts were that you found persuasive?

A It would take a little thinking --

Q I only want to know if you have the recollection?

A No.

Q I don't want a recitation of the facts.

A No.

Q You do not?

A No.

Q Do you recall the fact, for instance, that a woman named Marilyn Sheppard was murdered?

A Yes.

Q Do you recall that the murder occurred in her home in Bay Village?

A Yes.

Q Do you recall that the defendant Sam Sheppard was a doctor?

A Yes.

Q And that he was her husband?

A Yes.

Q And that he was at home, or near the home, at the time the murder occurred?

A Yes.

Q Do you recall reading anything about the defendant's version of what happened?

A Yes.

Q Do you recall reading anything about the defendant's private life other than his services as a doctor?

A Yes.

Q Do you recall reading anything about his interrogation by the police?

A Yes.

Q Do you recall reading anything about the extent of his cooperation with the police?

A Yes.

Q Now, as the trial went on, did you follow the accounts, the evidence and the other matters that were reported in the local press during the trial?

A Not to any great extent.

Q Well, in any event, the opinion took hold at some point before the trial occurred, did it not?

A Yes.

Q That opinion has continued right up until today, is that correct?

A I would say that was incorrect.

Q Didn't you tell Mr. Spellacy a few moments ago that you did have an opinion today which you thought you could lay aside?

MR. SPELLACY: Objection.

THE COURT: He may inquire.

Q Wasn't that your statement, Mr. Ainsley?

THE COURT: That is not my recollection, Counselor, what his statement was. But you may inquire.

Q Well --

THE COURT: Do you understand the question that is before, Mr. Ainsley?

MR. BAILEY: I will strike the question.

Q Mr. Ainsley, when you came into the court this morning did you have any opinion at all one way or the other about the merits of the Sheppard case, as to whether or not he is guilty or innocent? The answer is just yes or no, whether you had an opinion or were conscious of it.

A I would say yes.

Q So that your opinion continued from the time that it was formulated in 1954, prior to the first trial, over a twelve-year span and some months until this morning?

A Yes.

Q And it continued unchanged I take it, in other words, you always felt disposed the same way, you haven't shifted back and forth?

A Yes.

Q Now, you were asked by my opponent, Mr. Spellacy, whether or not you could lay that opinion aside and forget

what you heard, and I believe you responded in the affirmative?

A Yes.

Q Do you feel that you can close from your memory all of the facts which have been resting there for twelve years, as if you never heard them?

A It is difficult to answer yes or no to that.

Q I understand that. Is there some doubt in your mind as to whether that is possible?

A Yes, yes.

Q Now, you have been instructed that there is a presumption of innocence attaching to the defendant in any criminal case?

A Yes.

Q And that presumption is that as the defendant sits here there is nothing on against him and he is presumed not to have committed the crime, you understand?

A I understand.

Q Do you feel that you can actually wipe out so much of your memory as relates to the Sheppard case to the extent that you can accept in fact this presumption of innocence, and apply it with no difficulty to Sam Sheppard?

A I feel that I could.

Q You feel that you could?

A Yes.

Q Do you recall reading anything in 1954 about the defendant giving testimony at the trial, as to what he had to say?

A Yes.

Q You have some recollection of what his story was at that time?

A Yes.

Q You will be instructed at some point that the defense in any criminal case has no burden of going forward with proof of any kind, and has an absolute right to remain silent, either totally or as to the defendant.

I want you to assume, Mr. Ainsley, that the State of Ohio shows to your satisfaction that Marilyn was indeed murdered by some human agency, that it occurred in her own home, that Sam Sheppard was present in that home, and that no one else was present.

I want you to further assume that Sam Sheppard gives no evidence, does not take the witness stand, does not explain, does not tell what happened, does not testify in any way before this jury; that you are then instructed by the Court that you may draw no inference from his silence.

Do you think you will have any difficulty in abiding by that instruction, and not counting the silence of the defendant as some indication in the face of the State's evidence of guilt or something to hide?

A I believe I can accept the defendant's decision not to testify.

Q I understand that. But could you accept it and at the same time draw no inference whatsoever from his silence, no inference at all?

A I would say yes.

Q So that you would be able to decide the case without counting as a factor to be weighed with the evidence the silence of the defendant?

A Yes.

Q Now, supposing that in addition to the silence of the defendant himself there is no evidence at all presented by the defense, that no effort is made whatsoever by the defense, Counsel to produce evidence to explain, mitigate, or contradict something that has been proven to your satisfaction by the State, would this total silence on the part of the defense generally, if you were instructed by the Court, that it was meaningless, as to the merits of the case, would you be able to disregard that silence and not count it as a factor against the defendant?

MR. CORRIGAN: Objection.

MR. SPELLACY: Objection.

THE COURT: Objection overruled.

MR. SPELLACY: May we approach the

bench, Judge?