

OPENING STATEMENT ON BEHALF OF THE STATE OF OHIO

MR. MAHON: If your Honor please, counsel for the defendant and ladies and gentlemen of the jury: I suppose it might be well at this time to outline to the jury, your not having had the experience in Court, just what the procedure is in a case of this kind.

First comes the impanelling of the jury, which has been accomplished. Then opening statements by the Prosecutor and counsel for the defendant. We are now in the process of doing that.

Following the opening statements witnesses will be called on to testify under oath from that witness stand. One by one they will tell their story. There may be some physical exhibits offered and received into the evidence in this case. After all of the witnesses have testified and all of the evidence is before the jury, then counsel are again privileged to address the jury in a closing argument. The State will make the opening argument, counsel for the defendant will make their argument and then the State will close the argument.

Following the closing arguments, the judge will instruct the jury on the rules of law that apply in a case of this kind, he will explain to the jury the

verdicts that might be rendered in this case, and

then the jury will retire to their deliberating

room. The jury will be secluded there. The jury

will have with it the physical evidence, that is,

the exhibits that might be admitted into the evidence

in this case, and then the jury will deliberate,

counsel among themselves as to whether this defendant

is guilty or not guilty of the crime charged in the

indictment, and when and if you agree upon a

verdict, and it will take a while for you to agree

upon a verdict, you will then be called down into

the court room where in open court your verdict

will be read.

In answer to question to find out the facts

of the testimony of those witnesses and to

decide whether or not the defendant is guilty

of the crime charged, the jury will be

secluded in the jury room and will not be

allowed to see the defendant until after the verdict

has been rendered by the jury.

This defendant has been indicted by the Grand

Jury on the charge of murder in the first degree

and is now going to stand trial on this indictment.

Each one of you will be sworn by the court, and then

you will be sworn to find the defendant guilty or not

That is the procedure that is followed in every criminal case, ladies and gentlemen, and which will be followed in this case.

Now, at this stage of the proceedings, the prosecutor and counsel for the defendant are privileged to make an opening statement to the jury, and as Judge Blythin has told you, these statements are not for the purpose of giving you any evidence in the case, but are only for the purpose of telling you what we expect the evidence to be, so that as the various witnesses take the witness stand and testify you might be in a better position to fit into its proper place the testimony of those witnesses, and so anything that I say to you during the course of this opening statement, or anything that counsel for the defendant will say to you when they talk to you, should not be considered by you in any respect as evidence in this case.

This defendant has been indicted by the Grand Jury on the charge of murder in the first degree, and I am first going to read to you the indictment which has been returned by the Grand Jury, and then tell you what I expect the evidence to disclose.

"Of the Term of April in the Year of Our Lord One Thousand Nine Hundred and Fifty-four, the jurors of the Grand Jury of the State of Ohio, within and for the body of the County aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that Sam H. Sheppard on or about the 4th day of July, 1954, at the County aforesaid, unlawfully, purposely and of deliberate and premeditated malice, killed Marylin Sheppard, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio."

Now, that, ladies and gentlemen, is the formal indictment which has been returned by the Grand Jury of this County, charging this defendant with this offense, and his Honor, Judge Blythin, when he instructs you on the rules of law in this case, will tell you that the indictment is not evidence in this case.

The indictment is merely the formal way of advising the defendant of a charge which he must meet in court so as to give him an opportunity to prepare his defense.

Now, in support of this indictment, I expect that the evidence will be substantially as follows:

The evidence will disclose that Sam H. Sheppard, his wife, Marilyn, and his son, known as Chip, a child, I think, about six years of age on July 4th, resided at 28924 Westlake Road in the city of Bay Village, which is located in Cuyahoga County.

The evidence will disclose that this home is situated along Lake Erie, between Westlake Road and Lake Erie. That the house in which they lived there faces Lake Erie, the front of the house faces the lake, the rear of the house faces Lake Road, so as you go off the road and go into a door there, it is a rear door that leads into a hallway, the kitchen is off the hallway there, and you walk -- and you continue to walk through, and you walk into the living room. It is a little bit different than the average layout of the house as we understand them that face the street. This house -- the rear of the house faces the street.

The evidence will disclose that this defendant is a doctor and practiced in Bay Village and nearby points, and was associated with Bay View Hospital, which hospital is also located in the City of Bay Village, and that is also located on West Lake Road, two or three miles, I am not sure as to the distance, east of the home of Dr. Sam Sheppard. And connected with that hospital of the Sheppard family besides Dr. Sam Sheppard was his father, Richard Sheppard, Sr., a brother, Richard Sheppard, and another brother, Stephen Sheppard, all of these doctors, all of them associated together at that hospital.

The evidence will further disclose in this case, ladies and gentlemen, that on the night of July 3rd, which was a Saturday, that there had been some arrangements made for a family by the name of Ahern, Mr. and Mrs. Don Ahern, and their children to have dinner at the home of Sam Sheppard.

Mrs. Ahern and Marilyn Sheppard had made those arrangements. The Ahern family also reside on West Lake Road and they also -- and they live, I think, about five houses west of the Sheppard home and did at that time.

The evidence will disclose that about between 6:00 and 6:30 on the evening of July 3rd, that Sam

Sheppard and his wife, Marilyn, and his son, Chip, went over to the Ahern family's home, and there they had a couple of cocktails and talked there until about 8:00 or 8:30 -- about 8:00, I believe the evidence will disclose, when they adjourned from the Ahern home and went to the Sheppard home. That is where the dinner was to be. I believe that Mrs. Sheppard, when she went to the Ahern home had a roast on cooking and continued to cook while they were visiting at the Ahern home.

After arriving at the Sheppard home, the meal was finally prepared. In the meantime, before that Mr. Ahern, Sam Sheppard, Chip and I believe there were two boys of the Aherns --

MR. DANACEAU: Yes.

MR. MAHON: -- two boys of the Aherns, they were down in the basement of the Sheppard home. There is a punching bag down in the basement there, and the boys were being shown how to punch the bag down there.

Sometime after that, or maybe it was before they went to the basement, Sam Sheppard and Don Ahern went down to the lake, went down the stairs that you saw there yesterday and which you went down, down to the lake to see how the lake was

because they expected the next day, or Dr. Sheppard did at least, that there was to be some people at his home to do some water skiing. He went down to examine the condition of the lake to see whether or not it might be suitable for water skiing the following day.

About 9:00 they started to eat, had their dinner, and the dinner was served -- while it was a rather chilly evening and the wind was blowing, the meal was served on the front porch. That is the porch overlooking the lake. It is a screened-in porch, a large screened-in porch.

The table was set out on the porch, and that is where they had dinner, with the exception of the children. The children were served their meal in the kitchen, but the adults, that is, Mr. and Mrs. Sheppard and Mr. and Mrs. Ahern, had their meal on the porch. It was quite chilly that evening, and during the course of the meal, maybe just before it started, Dr. Sheppard put on a corduroy jacket and Mrs. Ahern obtained a sweater or jacket of some kind and put it over the shoulders of Mr. Ahern.

The evidence will disclose that earlier that evening Dr. Sheppard had been wearing a khaki jacket, and that that was removed when he was in



the basement and he couldn't find it, and so he put on a corduroy jacket.

The evidence will disclose that the meal was completed, they had finished eating, along about 10:00 or maybe shortly thereafter. After the meal was completed Mr. Ahern took his children and took them home. Mrs. Ahern remained at the Sheppard home.

As I said, Mr. Ahern only lived about five houses to the left on Lake Road. And he returned to the Sheppard home along about 10:30 that night.

In the meantime, Mrs. Sheppard and Mrs. Ahern cleared the table and washed the dishes, took care of that. Dr. Sheppard was in the house. I believe he was fixing an airplane of his son that had been broken, a toy airplane.

During the period of the meal -- they had a small radio in the house there and that was on and there was a baseball game that night which lasted quite late, until after midnight. It was an extra-inning game. Cleveland was playing. And after the dishes had been cleaned up, Mr. Ahern had taken his children home and returned, and then they put on the television, there was a movie on. They also kept the radio on to listen to the ballgame,

at least the men did or Mr. Ahern principally I think was interested in that, and they continued to watch this movie, the four adults. I believe just before or just about the time that the movie went on Chip was put to bed. Then the adults watched the movie and listened to the ballgame.

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During that period of time, Dr. Sheppard, who had been seated on a chair with his wife there, went over to lie down on a couch. This couch is -- you folks were out at the scene yesterday, probably you observed it as you went through the living room there. The television was pointed out to you, and the couch was pointed out to you. As you go to the second floor of that house, you go up three steps to a platform, and that platform also leads to three steps that rise from the kitchen up to that platform. In other words, you can enter -- go upstairs either from the kitchen door or from the living room door. There are three steps up to that platform, and then you go up the main steps which go straight up to the second floor.

Now, this couch was in the living room, which is L-shaped alongside of the staircase, and extends from the stairway, those three steps that lead up to this little landing there going up the stairs, and to the end of the wall there of that L.

When he went -- when Dr. Sheppard went to lie on that couch, his television was in operation, and he lay on his stomach pointing toward the

television and had a pillow under his chin so that his head was up and that he could watch.

The evidence will disclose that his dress that night -- that he had on a pair of trousers, slacks, sort of corduroy; that he had on a white T-shirt; that he had on this corduroy jacket; and he had his shoes on or loafers of some kind, and some socks, and that is the way he was dressed when he lay on that couch watching the television.

The evidence will disclose that while he was lying there he dozed off asleep while the other people were there, and along shortly after 12 o'clock the move was completed. Mrs. Sheppard was rather drowsy, too.

The evidence will disclose that the Aherns left along close to 12:30 on the morning of July 4th at that time, right after midnight.

To go back a little bit, after this meal had been completed and after the table had been cleared off, the dishes had been taken from the porch and into the kitchen, the evidence will disclose that Mrs. Ahern locked the door which led from the living room out onto the porch.

Now, that door is locked by means of a bolt closing the door. There is a bolt there that

you turn, and it turns the bolt into a door for a lock.

In addition to that, there is a chain lock on that which -- part of it on the sill and part on the door, and when you put the chain together there, that it permits the door only to open a certain distance that the length of the chain will let it open. That was also put in place by Mrs. Ahern.

Now, that was after all of the cleaning-up had been done out on the porch, and then, as I say, they started to watch the movie. When Mr. and Mrs. Ahern left that early morning, they went out the door which leads out to Lake Road. That would be on this house the rear door, and Mrs. Sheppard accompanied them to the door.

The defendant, Sam Sheppard, was asleep on the couch at that time, and after the Aherns got outside the door, the door was closed, and the Aherns went on their way home.

The evidence will further disclose that shortly before 6 o'clock in the morning, that same morning, July 4th, I believe it was about 5:50 or thereabouts, -- the evidence will disclose just what time it was -- Mayor Spencer

Houk, who is Mayor of the City of BayVillage, who also resides on West Lake Road and just a few houses away from the Sheppard home, and who was a very close friend of the Sheppards, that he received a telephone call from the defendant, Sam Sheppard, urging him to come over to the Sheppard home, something terrible had happened, that Marilyn had been killed. "Marilyn" being Mrs. Sheppard. Mayor Houk and his wife went over to the Sheppard home and they entered that home by the rear door, that is the door leading from Lake Road -- facing Lake Road. The door was closed and they opened it and went in.

The first thing that attracted their attention as they entered that door was a doctor's grip, medical kit upended on the floor with some of the contents spilled out on the floor.

As you enter that door from Lake Road, you enter into a hallway, as you folks observed out there yesterday, and the first door that you come -- the first place that you come to on the left as you enter is a door leading into the kitchen. The first door that you come to on the right is a room which has been

designated as a study or den, the doctor's office, whatever you call it, that leads in from the right of that hall, and as Mr. and Mrs. Houk proceeded in, they saw this defendant seated in a chair in this room which is designated as a den, the den, and he mumbled something to them about Marilyn.

The evidence will disclose that immediately Mrs. Houk went through the kitchen, up those three stairs, and then turned and went up the main stairs up to the second floor.

The room occupied by Mr. and Mrs. Sheppard is pretty near directly opposite the stairs as you go upstairs on the second floor, and Mrs. Houk went up there and looked into that room. In the bed -- there were twin beds in that room, and in the bed nearest the door she saw the body of Marilyn Sheppard, her face and head covered with blood, the upper part of her pajamas were pushed up, the lower part of her pajamas, one leg was out of the pajamas, her body was exposed, she was lying on her back.

She felt for her -- Mrs. Houk felt for the pulse of Mrs. Sheppard, could find none. She then returned to the first floor and told her husband, Mayor Houk, what she had seen upstairs.

The evidence will disclose that Mayor Houk immediately called the Bay Village police. He also called the brother, I believe it was Richard.

MR. DANACEAU: Richard.

MR. MAHON: Richard Sheppard, the brother of Sam Sheppard, and informed him what had happened.

The evidence will further disclose that when the Houks arrived there they found Sam Sheppard in this den. There is a desk in that den. That at the time they found him he had no clothing above the waist on him. He had trousers on, which were wet, and had his shoes or loafers, whatever they were, on also. His trousers were wet.

They attempted to talk with him, but he only mumbled to them, said, "They have killed Marilyn."

Dr. Richard Sheppard arrived shortly after, the police arrived there, and Dr. Richard Sheppard went upstairs to examine Marilyn and found her dead.

It was also found there by the police and



the Mayor when they arrived there that the drawers of this desk in the den were all pulled out and lying on the floor, some of the contents scattered around. There was also found there on the floor a wristwatch, which was Marilyn Sheppard's wristwatch.

The evidence will disclose that in the living room there is a little desk which was set against the north wall of the living room right next to the door that leads out on to the porch, and that the drawers of that desk were pulled out, that there was on the floor alongside, close to this desk, a bundle of papers scattered about and piled very closely in a pile. The other drawers that were pulled out, the contents were not disturbed at all, but the drawers were pulled out but the contents of the drawers were not disturbed at all.

The evidence will disclose further that the police started their investigation, were told by Sam Sheppard that someone had been in the house, and that he heard Marilyn cry and he ran upstairs, and that he was clobbered as he reached the top of the stairs and knocked out.

The evidence will disclose, ladies and gentlemen, that he had an injury to the face around

the eye and that he complained that his neck was hurt.

The evidence will disclose that after his brother, Richard, arrived there his brother Steve came there and some other doctors, I believe, her interns from the Bay View Hospital, and that that Dr. Sam Sheppard was taken from the house by his brother, Steve, and these interns and taken to a station wagon, I believe it was, of Steve's and taken to Bay View Hospital.

The police made an extensive search around the place, they examined the house. They could find no evidence of anyone breaking into that house. There was no evidence at all that they discovered. They searched the grounds around there, that out in the -- later on that morning, the evidence will disclose, that Mayor Houk's son with others that were searching around the grounds there, that in the -- you folks can visualize on those stairs as you go down to the beach, and to the west of that, that would be to the right as you go down the beach, the land slopes off going down a hill, there --

MR. DANACEAU: -- To the east. Second

MR. MAHON: -- (Continuing) To the

east, to the right as you go down the stairs would be the east, down on that hill there in some tangled brush the Houk boy found a boy, a small cloth bag. In that bag there was a wristwatch, a ring and a chain usually worn in the pocket of a man. That was in that bag. The evidence will disclose that that wristwatch was the wristwatch of Dr. Sam Sheppard and that the ring was his and that that chain was his.

The evidence will disclose that that bag was from the home of Dr. Sheppard, that it had been in the den, that that bag was used for holding some wrenches or tools which were found lying around in the den there on that morning.

The evidence will further disclose that the trousers of Sam Sheppard, one of the legs had red stains on it. As I said before, they were wet.

The evidence will disclose that later on the stains were analyzed by technicians to determine what had caused the stains, and the evidence will disclose that the stain was human blood.

The evidence will further disclose that upon further investigation by the police, that blood was found on the stairway leading from the second floor down, on the top landing and down the stairs,

and downstairs across the room, blood was found on the stairs leading into the basement. I don't mean pools of blood but drops of blood.

We expect to show that while they weren't able to determine what all of those spots were, as to whether or not it was human blood, the evidence will disclose that it was determined that it was blood and that some of it was human blood, that which they were able to make a finding on.

The evidence will disclose further that upon examination of the room where Marilyn's body was lying on the bed, that the walls around the bed were splattered with blood, the bed was all soaked in blood, her body wreathed in blood. That her head had been brutally beaten.

We will have evidence here from the Coroner who made the post-mortem examination of the body that there were about 25 blows that had been administered on the body and principally the head, practically all of them in the head excepting some on the hands, and all of the blows were on the -- most of them were on the forehead and the front part of the head, delivered with such violence that the skull was all crushed and fractured, the

hands were marked up where they had been hit.

I believe that one of the nails was pretty near torn out, one of the nails on the hand. There were 15, I believe, the evidence will disclose that, 15 blows alone above the eyes on the head, all of them leaving lacerations and delivered with such force that they fractured the skull.

The nose was broken from a blow; injuries around the eyes and under the eyes. There were blows, and the Coroner will describe to you folks just the condition of that body when he examined it.

The evidence will further disclose in this case, ladies and gentlemen, that this defendant told the authorities that he heard Marilyn moaning or calling and he went upstairs and was clobbered and knocked out, and when he came to he heard a noise downstairs and went downstairs and saw a figure going out the porch off the -- that would be the front porch toward the lake -- and then he followed, and this figure went down the stairs, down to the beach, and that he followed this figure down to the beach, and that there he grabbed with this figure and again was knocked out.

The next thing that he knew he came to, he was wallowing in the waves with his head on the beach, and then he went back up the stairs and called for help, his assailant had disappeared.

That is the story he told the police, ladies and gentlemen.

The evidence will disclose that the room

where Marilyn was found, there was no sign of a struggle at all, no sign of a struggle. The only violence that was found to have been exerted in that room was the violence that was exerted on the body of Marilyn Sheppard. There was nothing missing from that room. The instrument that was used to strike and beat Marilyn Sheppard was not found. The T-shirt that Dr. Sheppard had been wearing was not found. The curdroy jacket that he had been wearing when the Aherns left and he was asleep on the couch was found neatly folded lying on the couch that morning.

The evidence will disclose further, ladies and gentlemen, that I believe this defendant and Marilyn were married out in California about 1945. He was going to school out there at that time, and they continued to live out there until I believe about 1951, late '50 or '51, when he came to Cleveland or to Bay View to practice here.

The evidence will disclose that while they were living out in California -- that was in Los Angeles -- that he had affairs with other women out there. That while out there he contemplated divorce from Marilyn because of his

infatuation with other women out there.

The evidence will disclose that nothing resulted in divorce there, and then they came to Cleveland or to Bay Village.

And I might say that this hospital that is located in Bay Village, Bay View Hospital -- that the Sheppards also maintain a clinic which is located on Lorain Road, I believe, in Fairview Park, a suburb of Cleveland, also.

The evidence will disclose that when they came to Cleveland or Bay View, that this defendant practiced medicine at the hospital there, and that there was a young lady working at that hospital by the name of Susan Hayes, and the evidence will disclose that this defendant became infatuated with Susan Hayes, and that they would meet from time to time, she would go out on calls with him, and that their relationships were very close and intimate for a period of time.

Finally this girl left Bay View Hospital and she went to California to Los Angeles. In the latter part of February, or around the first of March, the evidence will disclose that this defendant and his wife, Marilyn, went to California,



to Los Angeles. That he wanted to take some work at this school out there, and when they arrived out there they stayed at a motel for a few days, and that Mrs. Sheppard, Marilyn, she went to the home of a Doctor and Mrs. Chapman, who resided -- at least had a summer place in Monterey, California, up near San Francisco, probably some 300 miles from Los Angeles, and that she remained there until they returned to Cleveland.

The evidence will disclose that while she was up there, that this defendant contacted Susan Hayes in California. I believe the evidence will disclose that he contacted her even before Marilyn went up to Monterey, and that after Marilyn went up to Monterey, that he started to live with Susan at the home of a Dr. Miller, also an osteopath, and remained at the home of Dr. Miller occupying the same room with Marilyn --

MR. PARRINO: With Susan Hayes.

MR. MAHON: Or Susan, with Susan Hayes, for several days. That they attended a wedding together in San Diego, California, drove there. That on that trip Susan Hayes lost her

wrist watch, and that Dr. Sheppard, Sam Sheppard, the defendant, purchased another wrist watch for her. The evidence will disclose that the Sheppards -- that is, the defendant and Marilyn, returned to Bay View in the latter part of March. That he and Susan Hayes corresponded. That they had talked together about divorce and marriage. That they corresponded in language of endearing terms. That Miss Hayes had been informed not to send mail to his home or to the hospital, but to direct it to the Clinic, which is located on Lorain Road.

We expect the evidence in this case to disclose, if you please, ladies and gentlemen, that this defendant and Marilyn were quarreling about the activities of Dr. Sam Sheppard with other women. That that is the reason she was killed.

The evidence in this case will clearly disclose, when you give a reasonable, probable interpretation to the evidence, that a finger of guilt will point to Sam Sheppard. The evidence, with a reasonable interpretation, will show that no one was in that home attempting

to commit a burglary, but that had been arranged to deceive people who might investigate that there had been a burglary there. There was no property missing excepting this watch and ring and chain from the home there.

The evidence with a reasonable interpretation will disclose that if it had been a burglary, that all of those drawers would have been dumped out and the contents dumped out in the search for whatever the burglar was looking for.

The reasonable interpretation is that the watch and chain and ring were placed into the bag and tossed out in the back there, placed there to deceive that a burglar had taken that property out.

A reasonable interpretation of the evidence surrounding all of that, ladies and gentlemen, will show clearly that all of that was a set-up with a thought of deceiving people that there had been a marauder or intruder into that house, a reasonable interpretation, ladies and gentlemen, of the evidence of the means of Marilyn Sheppard's death, with some 25 vicious blows to her head with such force as to crush her skull, a reasonable interpretation is that a burglar just doesn't do that, ladies and gentlemen. And I say to you, ladies and gentlemen, a reasonable interpretation is that a burglar wouldn't take a sweat shirt off of a man's body and carry it away. The sweat shirt is gone -- T-shirt, the T-shirt is gone.

So, ladies and gentlemen, that is the case that we expect to prove here. We know that you are all reasonable minded men and women. We ask you to pay close attention to the testimony all of the witnesses, draw reasonable inferences and deductions from certain proven facts that will be produced here in this court room, and when you do that, ladies and gentlemen, I am sure that you also will point the finger of guilt at Dr. Sam Sheppard for a brutal slaying.

Now, all I ask you to do at this time, ladies and gentlemen, is to keep your minds open and free from any conclusions until you have heard all of the witnesses' testimony and all of the evidence is before you, and then decide this case with the thought in mind of doing full and complete justice to everyone concerned.

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THE COURT: Ladies and gentlemen of the jury, we will have a few minutes recess at this point, and will you please observe the caution which the Court has given to you previously, do not discuss this case, not even among yourselves.

(Recess taken.)

(Thereupon, opening statement on behalf of the defendant was made to the jury by Mr. Garmone.)

(Thereupon, the following proceedings were had:)

THE COURT: Ladies and gentlemen of the jury, we will now be adjourned until 2:15 this afternoon, and will you please be very -- please, gentlemen, gentlemen of the press, if we are going to have disturbance at the closing of these sessions, the Court will order that door locked.

There will be no movement of any kind by anybody, please, from now on. It will only take us a second and we are going to maintain order in the trial of this cause.

Ladies and gentlemen of the jury, will you please observe the caution which the Court has expressed to you, do not discuss this case at all, not even among yourselves?

We will now be adjourned until 2:15 this afternoon.

(Thereupon, an adjournment was taken until 2:15 o'clock p.m., of the same day, at which time the following proceedings were had:)