

Thereupon, the State, further to maintain the issues on its part to be maintained, called as a witness RICHARD SOMMER, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION OF RICHARD SOMMER

By Mr. Mahon:

Q Will you tell us your name, please?

A Richard Sommer.

Q Where do you live, sir?

A Pardon, sir?

Q Where do you live?

A In Bay Village.

Q What address?

A 27031 West Lake Road.

Q And what is your business?

A I am a fireman with the City of Bay Village.

Q Mr. Sommer, I want to call your attention to the morning of July 4th of this year. Did you have an occasion to call at the home of Sam Sheppard?

A Yes, sir, I did.

Q And what time did you go there?

A Approximately 5:57, sir.

Q How did you get there?

A Drove the ambulance.

Q Did anyone accompany you?

A Yes, sir. A volunteer fireman, Ronald Callahan.

Q What time did you arrive at the house there?

A Approximately 6:00 o'clock, sir.

Q And who was there when you arrived?

A The two policemen that left before I did, Patrolman Drenkhan and Cavanaugh, the Mayor, the Mayor's wife, and that's all I saw when I got to the house.

Q Did you see Sam Sheppard there?

A Yes, sir. I glanced in the study and saw him, sir, but that's all.

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Q And where was he in the study?

A Sitting in the chair, sir.

Q And what did you do there?

A Took the stretcher upstairs and stood by until Dr. Richard came.

Q Did you go into the bedroom?

A Yes, sir, I did.

Q What did you see there?

A Marilyn Sheppard on the bed, sir.

Q What was her condition?

A She was -- well, sir, she had been hacked. She was bloody. Dead, sir.

Q How long were you there before Dr. Richard came?

A Oh, sir, I'd say approximately 20 minutes to a half hour.

Q Were you downstairs or upstairs all of that time?

A Both downstairs and upstairs, sir.

Q Did you go any place else that morning outside --

A Yes, sir.

Q Where did you go?

A Down on the beach.

Q On the beach?

A Yes, sir.

Q Did anyone accompany you there?

A Yes, sir. The volunteer fireman, Ronald Callahan.

Q Did you go down on the beach of your own accord, or were you directed to go down there?

A The first time, sir, we walked down on the steps to the boat house on our own accord. We didn't go on the beach then, and we came back upstairs, at which time we saw Sergeant Hubach. We told him that we saw some fishermen on the pier at Huntington. He requested that we go down and get the names of these fishermen, so we did.

Q And about what time did you go down on the beach at that time?

A Oh, sir, I'd say approximately 6:30.

Q Now, the first time you went down, you did not go down on the beach itself?

A No, sir, we didn't.

Q How far down did you go?

A Down to the landing, sir, in front of the boat house.

Q Now, when you went down to see the fishermen, you went right down on the beach, on the sand, is that right?

A That's right, sir.

Q Did you walk along on the beach?

A Yes, sir. We walked over to the west pier of Huntington.

Q That would be east of the Sheppard property, would it not?

A That's right, sir.

Q And about what is the distance from the Sheppard property to the pier?

A Oh, --

Q Approximately.

A Oh, approximately 300 -- maybe 300 yards, something like that. Maybe a hundred yards.

Q Yards?

A Yes, sir.

Q Now, as you walked down the beach did you see any footprints on the beach?

A No, sir, I didn't.

Q And what was the condition of the lake at that time as to whether or not it was rough or --

A The lake was choppy, sir.

Q It was choppy?

A That's right.

Q How far did the waves come up on the beach?

A I'd say there was about three, four feet of beach that morning, sir.

Q And you walked all the way to the pier?

A That's right, sir.

Q And you had some conversation with the -- by the way, how many people were on the pier?

A There were three people, sir: Two men and a young boy.

Q You had some conversation with them, did you?

A Yes, sir, I did.

Q And what was that conversation?

MR. GARMONE: Objection.

THE COURT: Objection will be sustained.

MR. MAHON: Well, of course, they have gone into that conversation with other witnesses, if your Honor please.

THE COURT: Are these the same people?

MR. MAHON: That's right.

THE COURT: Well, if that is so, then, of course, it is admissible. All right. Let him answer.

A Well, we went out on the pier, we saw --

MR. GARMONE: There is no evidence before this Court that the people that he is going to talk about that he had conversation with are the same people that Mayor Houk and John Eaton had talked to.

MR. MAHON: I think it will develop and be shown that they are the same people.

MR. GARMONE: Let's develop that before we get the conversation.

MR. MAHON: We can't do that without

having the conversation.

THE COURT: Let him answer.

MR. GARMONE: Exception.

A Well, sir, we went out on the pier and we saw these two fishermen and a boy. We asked them how long they had been there. They said approximately a half hour. We asked them if they had seen anything peculiar that morning, and they said no.

They wanted to know how come. We said no apparent reason. We just wanted to know if they had seen anything peculiar in that neighborhood, and they said they had seen a couple of boys or young men at Huntington that morning, oh, about a half hour before we got there, maybe between -- pretty close to 6 o'clock. Outside of that they saw nothing that was unusual.

Q And did they say where they had seen these young men?

A Well, they said they were back, as I recall, they were back into Huntington itself west of -- east of them towards the main pier.

Q East of the pier that they were on?

A That they were on, sir, yes, sir. Near the main pier of Huntington.

Q And the main pier is east of that pier that you were talking about that these men were on?

A That's right, sir.

Q And then where did you go after talking to those men?

A After talking to those men, we went back along the beach to the Sheppard residence, at which time we gave the names and addresses of these men to Sergeant Hubach, and we left the scene, sir, and went back to the fire station.

Q And as you walked back towards the Sheppard property from this pier where these men were on, did you observe any footprints other than the footprints that you and your companion had made?

A No, sir.

Q Did you see the footprints of the woman on the beach --

A No, sir.

Q -- bare feet? You did not?

A No, sir.

MR. MAHON:

You may inquire.

CROSS EXAMINATION OF RICHARD SOMMER

By Mr. Corrigan:

Q Mr. Sommer, where is the fire station located?

A At Cahoon and Lake Road, sir.

Q Now, the police department is located right there near the shopping center. What is that road there?

A Pardon, sir?

Q The police station, the police headquarters are in a different building than the fire headquarters, is that

correct?

A Yes, sir. They are in the basement of the City Hall.

Q That is where the police headquarters are?

A That's right, sir.

Q Where is the fire station in relation to that building?

A The fire station is one block west and approximately one block north.

Q And you were in the fire station that morning when you got the call to go to the Sheppard house?

A Yes, sir. I was there when the call came in.

Q I believe that was given to you by Mr. Drenkhan?

A That's right, sir.

Q Now, when you arrived at the Sheppard house with Mr. Callahan, what automobiles were in the driveway?

A Sir, the only automobile I recall in the driveway at that time I believe was a station wagon.

Q Did you know before you arrived there what had happened?

A No, sir. Patrolman Drenkhan said that he thought something was wrong, something had happened to Mrs. Sheppard. I did not know exactly what had happened until I arrived on the scene.

Q Did you know Mrs. Sheppard?

A Pardon, sir.?

Q Did you know Mrs. Sheppard?

A I had met her, sir.

Q Where had you met her?

A I had met her, when I recall, was at a breakfast, a wedding breakfast at a friend of mine's. It was up on Center Ridge in one of the -- Schlueter's, I believe it was, was the name of the place.

Q Well, it doesn't make any difference.

Was her husband with her?

A Yes, sir.

Q And when was that in reference to the 4th of July? How long before?

A Oh, sir, a few weeks.

Q A few weeks. And they were together at the wedding breakfast?

A That's right, sir. They weren't at our wedding breakfast. They were in the same building attending another function.

Q Well, did you know them well enough to talk to them?

A Yes, sir.

Q And did you notice their conduct towards one another?

A Yes, sir. As much as you would --

Q They acted just like an ordinary man and wife?

A Yes, sir.

Q That was your observation?

A Yes, sir.

Q Now, had you ever been down to their house?

A No, sir.

Q Do you have boys?

A No, sir.

Q You do not. Had you ever been around that part of the city and observed boys on Dr. Sheppard's property?

A No, sir, I hadn't.

Q You have not. All right.

Now, then, what kind of a stretcher is this that you carry?

A Well, sir, the one that we used that morning was a roll-away stretcher, sir. It has wheels on it and enables you to roll it in and out of the ambulance.

Q Well, were you told by someone to bring it into the house?

A No, sir. I wasn't told by anybody. That was my own decision, sir.

Q You just did it?

A That's right, sir.

Q You figured that was part of your -- that was your job?

A That's right, sir.

Q And you and Mr. Callahan carried that stretcher into the house?

A That's right, sir.

Q Now, did you go in the back door of the house?

A We went in the door facing Lake Road, sir.

Q Well, we call that the back door here.

A All right.

Q And when you got into the hall did you meet anybody?

A When I got into the hall, sir, no. The people I met were outside of the house.

Q Who was outside of the house?

A The Mayor and his wife, Patrolman Drenkhan and Patrolman Cavanaugh.

Q And did you have any conversation with them?

A Except I asked where the injured person was, and they told me upstairs. I asked how to get there, and I don't remember right now who told me how to get there, but somebody said, "You can't take the stretcher through the kitchen. You will have to go through the living room."

Q So then did you proceed through the living room?

A That's right, sir.

Q You proceeded up the hall and into the living room and around the L?

A That's right, sir.

Q And then up the stairs. Now, then, did you notice there was no carpet on the stairs?

A No, sir. I don't remember.

Q You don't remember that. Now, you two men then carried that stretcher upstairs?

A Yes, sir.

Q And did you go into the room where Marilyn was?

A Yes, sir, we did.

Q Was there anybody in the room?

A At that time, sir, no, there was nobody in the room itself.

Q Was there anybody upstairs?

A I believe, sir, -- I can't recall, but I believe Patrolman Drenkhan was up there at that time.

Q Do you recall him coming in the room with you?

A No, sir, I don't recall.

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Q When you got the stretcher into the room and there was nobody there, what did you do?

A We backed the stretcher out, sir, and moved it down the hall so it wouldn't be in the way.

Q You moved the stretcher into the room, didn't you?

A Yes, sir.

Q Now, then, what did you do with the stretcher when you got it in the room?

A We backed it right out, sir, and moved it down the hall so it wouldn't be in the way.

Q And that was rolling, wasn't it? You rolled it?

A Yes, sir.

Q Now, as you rolled it down the hall, did you notice the door to the next room?

A Yes, sir, I did notice the door to, I believe it was the next room. It was open.

Q Did you go into the next room?

A No, sir.

Q Did Mr. Callahan go into the next room?

A No, sir, he didn't.

Q Could you see into the next room?

A Yes, sir.

Q And what did you see in regard to whether or not there was a human being in that next room?

A Yes, sir. I believe that Chip was in the next room.

Q Was he asleep?

A Yes, sir.

Q Yes.

A As far as I know.

Q Well, he was laying in bed like a child, you could tell that?

A Yes, sir.

Q Now, then, when you rolled it out into the hall and made that observation, how long did you remain upstairs in the hall or in the room?

A Oh, sir, a matter of minutes.

Q After you rolled it in the hall, did you go back into Marilyn's bedroom?

A No, sir, I don't believe we did.

Q But you remained up there, had some conversation with Mr. Drenkhan, didn't you?

A Yes, sir, I believe we stopped there for a minute.

Q And then you went downstairs?

A That's right, sir.

Q In the course of going downstairs, did you make any observation as to the stairs?

A No, sir.

Q As to whether there was any wet places on the stairs?

A No, sir.

Q Did you at any time during that day see water on the

stairway?

A Not that I can recall, sir. There probably was, but I didn't see it.

Q You didn't see it. Well, I heard you testify before the Coroner out in Bay Village, and my recollection is that you saw some water on the stairway.

MR. PARRINO: I object to
this form of statement, your Honor.

MR. CORRIGAN: All right. I
will withdraw it. I was just trying to
refresh the witness' recollection.

Q Now, you say you saw no water on the stairway?

A No, sir; I can remember seeing water on the porch, but I can't remember --

Q Now, after you came downstairs, where did you go?

A Well, sir, we went downstairs --

Q Did you remain in the house?

A Pardon?

Q Did you remain in the house after you came downstairs?

A Oh, for a couple of minutes, sir, and then we went out the front porch.

Q And did you notice any other people there at that time?

A No, sir. I couldn't say who I -- I didn't notice anybody there at that time.

Q Were you acquainted with the neighbors, Mr. Sommer, around

that particular part of the --

A No, sir, I wasn't.

Q You were not? You don't live down there in that particular part of the village?

A No, sir.

Q Now, after you had gone down on the beach, you came back up into the house?

A After we had gone down to the beach, sir, yes, I believe we came through the house, sir.

Q Did you see Dr. Richard Sheppard there that morning?

A Yes, sir, I did.

Q Did you see him when he arrived?

A I believe it was just about the time he arrived, sir.

Q Did you see him when he went upstairs?

A Yes, sir, I did.

Q And did you go upstairs with him?

A Yes, sir, I did.

Q So that was the second time you went upstairs?

A Yes, sir, I believe it was about the second time.

Q Was that before you went to the beach?

A Yes, sir.

Q And when you went upstairs with Dr. Richard, who else went up with him?

A ✓ Patrolman Drenkhan, sir.

Q ✓ Mr. Callahan?

A I believe -- I couldn't say, sir, because he would have been behind me, and I don't remember seeing anybody else.

Q Well, at least there was Dr. Richard and you and Mr. Drenkhan that went upstairs on that occasion?

A Yes, sir.

Q And the little boy was still asleep, as far as you were concerned, there was no stir in his room?

A I didn't hear any, sir.

Q The three of you went into the room of Marilyn Sheppard?

A Went to the room, sir. I don't recall now whether I stepped inside it or not.

Q And you saw Dr. Sheppard go in the room?

A Yes, sir.

Q You saw him examine the body of Marilyn Sheppard?

A Yes, sir.

Q And you heard him pronounce her dead?

A Yes, sir.

Q Now, then, the three of you talked there, did you not, had some conversation? I don't care to know what it was, but you did --

A No, sir, I don't believe I said anything there.

Q What?

A I don't believe I said anything there.

Q Well, the other two men did?

A They might have, sir.

Q Yes. And after that, how long did you remain upstairs on that occasion?

A We came right downstairs then, sir.

Q And was it after you came downstairs on the second occasion that you went down to see the fishermen?

A Yes, sir.

Q Now, then, after you had that conversation with the fishermen, you came back in the house?

A I believe we went through the house, sir.

Q Now, your stretcher was still upstairs, wasn't it?

A Yes, sir.

Q So you went upstairs the third time?

A Yes, sir.

Q And who went up with you on that occasion?

A Callahan, sir.

Q And did you go into Marilyn Sheppard's room?

A No, sir.

Q But you did take your stretcher down from the upstairs?

A Yes.

Q Did you roll it?

A No, sir. We lifted it. We had to to get it down the stairs.

Q I see. Now, then, you, of course, on two different occasions saw Mrs. Sheppard's body, didn't you?

A Yes, sir.

Q Now, I asked you the question whether you noticed any water. I will ask you if when you testified before the Coroner -- I am reading from Page 430 -- that you answered this way:

"Heard Dr. Sheppard pronounce this woman dead, went back downstairs. At that time we noticed the water on the stairway going out of the door leading to the beach."

Did you so answer?

A Yes, sir.

Q Now, does that refresh your recollection?

A Yes, sir.

MR. DANACEAU: We object to that. That is exactly what the witness testified to.

MR. MAHON: That is what he testified to, going out the door.

Q ✓ Where was the water that you saw?

A ✓ On the porch, sir, on the stairway leading out of the house.

Q What?

A On the porch, sir, on the stairway leading out of the house.

Q Well, as I understand it, -- I don't get that "stairway."

A On the porch steps, sir.

Q What?

A On the porch steps going out of the house.

Q Well, there is just one step there. Do you remember that?

A No, sir, I don't recall how many steps.

Q But you do recall that you saw the water on the step or steps?

A That's right, sir.

Q Of the back porch going out of the house?

A That's right, sir.

MR. MAHON: Front porch.

MR. CORRIGAN: Front porch, yes.

Q Now, when you looked at the body of Marilyn Sheppard, did you notice that her mouth was partially open?

A No, sir.

Q Well, just a moment. Mr. Sommer, will you look at this picture, which is marked State's Exhibit No. 9, and is that a fair representation of what you saw in that room on that morning?

A Yes, sir.

Q Will you look at the picture of the mouth as depicted there. Was it in that shape when you saw it?

A Sir, I couldn't say positively yes or no. I didn't examine the body that closely.

Q You didn't pay that much attention to it?

A No.

Q I see. All right. Did you see on that morning -- was your attention called to a cigarette butt?

A No, sir.

Q Was it ever called to a cigarette butt?

A No, sir.

Q Did you see on that morning a handkerchief and a pair of glasses?

A No, sir.

MR. CORRIGAN:

Thank you, Mr. Sommer.

That is all.

MR. MAHON:

That is all, sir.

(Witness excused.)

(10:00 o'clock, a.m.)

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