

48

THEREUPON, CECILE HORNDESKI, a member of the prospective jury panel, having been previously sworn, was examined and testified on voir dire, as follows:

THE COURT: Good afternoon, Mrs. Horndeski. Is that the correct pronunciation of your name?

MRS. HORNDESKI: Yes.

THE COURT: You spell that H-o-r-n-d-e-s-k-i?

MRS. HORNDESKI: Yes.

THE COURT: Mrs. Horndeski, the lawyers will be asking you questions about your ability to sit as a fair and impartial juror in this case.

You understand that, don't you?

MRS. HORNDESKI: Yes.

THE COURT: Now, the lawyers are obliged to ask you these questions, and in giving your responses to them, Mrs. Horndeski, you will keep your voice at a point so that each person in this room can hear your responses. Do you understand that, please?

MRS. HORNDESKI: Yes.

THE COURT: Mr. Romito here, our court reporter, he has to report into the record what you say, so you must respond audibly. A nodding of the head will not do the job. You understand that?

MRS. HORNDESKI: Yes.

THE COURT: And in answering these questions, Mrs. Horndeski, you will remember that you are under oath.

MRS. HORNDESKI: Yes.

THE COURT: Mr. Spellacy or Mr. Corrigan?

VOIR DIRE EXAMINATION OF CECILE HORNDESKI

By Mr. Corrigan:

Q Will you state your full name, please?

A Cecile Horndeski.

Q Where do you live, Mrs. Horndeski?

A 2157 McKinley, Lakewood.

Q And how long have you lived at that address?

A About six years.

Q Where did you live prior to living there?

A In Lakewood, 1461 Ridgewood.

Q And how long did you live on Ridgewood?

A About five years.

Q And before that you lived where?

A In Cleveland, on Gifford Avenue.

Q At what address?

A 4406.

Q How long did you live on Gifford?

A Oh, I think another five years.

Q Are you native to Cleveland?

A Yes.

Q What type of work is Mr. Horndeski engaged in?

A He works at Republic Steel as a bolt maker.

Q How long has he been so employed?

A About twenty years.

Q And are you employed outside the home?

A No, I am not.

Q Do you have a family?

A Yes, I do.

Q How many children, and what are their ages?

A I have two boys. One is eighteen and one is sixteen.

Q The eighteen year old boy is in school, is he?

A Yes.

Q Have you been employed outside the household at all since you have been married, Mrs. Horndeski?

A Just at the May Company.

Q In a downtown store?

A Yes.

Q From your answers, you lived on Gifford, I believe, in 1954, is that correct?

A Yes.

Q You understand from what Judge Talty told you here this morning, this is the case of the State of Ohio against Sam Sheppard.

In 1954 did you have occasion to read anything about this case in the newspapers?

A Yes, I did.

Q Did you read any magazine articles about it?

A No, I have not.

Q Any books?

A No.

Q Have you read about it since 1954?

A Just lately a little bit.

Q Did you ever have occasion to talk with anybody about this case? Answer just

A Just the neighbors.

Q In those discussions did some of your neighbors express their opinion?

A Yes.

Q And did you in turn express an opinion to them?

A I usually agreed with them.

Q Do you have an opinion today, answer yes or no, if you will, please?



A Yes.

Q This opinion is predicated on the discussions that you had with your neighbors and what you read in the newspapers, I take it?

A Yes.

Q Is this opinion such that it is fixed in your mind one way or another?

A I think it is the right one.

Q You feel it is?

A Yes.

Q If Judge Talty were to tell you as a juror it would be your function to put this opinion out of your mind, and predicate your ultimate decision as a juror on only the testimony that would occur in this courtroom, and only the evidence that would be admitted, would you have some difficulty in following that instruction?

A No, if I listened to it I would have to make my own opinion of it.

Q Now, assuming that something did not happen in this courtroom that you heard from some other source, would you be able to ignore that other information that you had, that you received previously from a newspaper source or from discussion with your neighbor?

A A lot I have forgotten since that time.

Q You feel you have forgotten what you read in the

paper?

A Yes.

Q Judge Talty will instruct you, too, I anticipate, that every defendant, and this defendant in this case, is presumed to be innocent unless and until proven guilty beyond a reasonable doubt; if he so instructs you, will you be able to follow that instruction?

A Yes.

Q I presume, too, that he will tell you that circumstantial evidence properly proven is just as admissible as direct evidence.

If he instruct you along that line, will you be able to follow that instruction of law?

A Yes.

Q Assuming that you are selected as an alternate juror and ultimately become a juror in this case, and the time arrives when the jury deliberates on the question of the guilt or innocence of this defendant, would you be able to join with you fellow jurors in the full and complete discussion of all the facts, of all the testimony, of all the evidence that is admitted into this case in this room, would you be able to discuss fully and completely with them all of the evidence and the facts and the testimony?

A Yes.

Q And would you do this with the view in mind of

arriving at a verdict or a conclusion that would be fair to both the defendant and the State of Ohio?

A Yes.

Q Are there any members of your family members of law enforcement agencies?

A Just my sister-in-law works for one.

Q A little louder please?

A My sister-in-law works for one. She works with lawyers.

Q For whom does your sister-in-law work?

A Curtiss.

Q For whom?

A Curtiss. There are quite a few of them, but I don't know all their names.

THE COURT: Counselor, is it

Jerome Curtiss, Curtiss Laronge?

Q She works for lawyers?

A Yes.

Q Is this your sister or sister-in-law?

A Sister-in-law.

Q Would the fact that she works for lawyers in any way influence your judgment in this case?

A No.

Q Do you have much contact with your sister-in-law?

A No.

Q What type of work does she do with the group of lawyers?

A Well, she was a secretary, but now she hires the help there.

Q Do you know what type of law this law firm is engaged in?

A No, I don't.

Q You don't know whether or not they are engaged in the practice of criminal law?

A No, I don't.

Q Are there any members of your family or among your close acquaintances who are members of a law enforcement agency in the sense that they are members of a police department or sheriff's department?

A Well, I have a cousin who is a policeman.

Q You have a cousin who is a policeman?

A Yes.

Q What is his name?

A Torbinski, Chester Torbinski.

Q With what police department is he associated with?

A I don't know.

Q How often do you see him?

A Just at weddings or parties.

Q Do you have occasion to discuss police work with him?

A No.



Q Now, Judge Talty will tell you that police officers may testify in this case, and he will tell you that just because he is a police officer is no reason why you should give greater believability or weight to his testimony than any other witness.

Will you be able to follow that instruction?

A Yes.

Q It may be that other public officials such as the County Coroner or his aides will testify, and would you give any greater believability or weight to their testimony, simply because they are they County Coroner or Deputy County Coroner, than you would to somebody else's testimony?

A I would rather use my own judgment.

Q You would use your own judgment?

A Yes.

Q In other words, you would the same standard in determining whether or not somebody is telling the truth as you would use in your own common ordinary every day experience when you meet someone and talk with them?

A Yes.

Q You would take into consideration whether or not the individual had an interest or a lack of interest in the case, in measuring or weighing his believability?

A I don't know.

Q Would you look upon a witness, employ your own every

day ordinary common sense in determining his believability, you would take into consideration, would you not, the fact that he had an interest in the case, or if he was a disinterested person?

A I would listen and see for myself.

Q You would listen and see for yourself?

A Yes.

Q Now, have you ever had occasion to be a witness in a criminal case or any kind of a case?

A No.

Q Do you have any members of your family who have ever been a victim in any criminal matter?

A No.

Q Have you ever had any prior jury service?

A No.

Q Do you know where the Bay View Hospital is?

A I have rode by it.

Q Other than having ridden by it, and learned its geographical location from that source, have you had any other contact with the Bay View Hospital?

A No.

Q Do you know Doctor Sheppard or any members of his family?

A No.

Q Or do you know the defense Counselor Mr. Bailey or

Mr. Sherman?

A No.

Q Do you know anybody in the Prosecuting Attorney's Office?

A No.

Q Looking at the other members that are seated in the jury box, do you know any of those folks?

A No.

Q Is there any reason why if you were selected as an alternate juror, and ultimately become a member of the jury that deliberates this matter, any reason why you could not be anything but fair, unbiased, impartial in this matter, and return a fair and just verdict, fair to both sides?

A Yes.

Q You feel that you could?

A Yes.

MR. CORRIGAN: Thank you. Pass  
for cause, your Honor.

THE COURT: Counselor Sherman  
or Bailey?

## VOIR DIRE EXAMINATION OF CECILE HORNDESKI

By Mr. Bailey:

Q Mrs. Horndeski, the opinion that you have about the Sheppard case, that you brought to court with you today, you have carried that for twelve years now since the first trial?

A Yes.

Q It hasn't changed?

A Well, like I said, I would have to hear for myself according to what the papers say.

Q I understand that. But if you have never been involved in this case as a juror as you are now, a prospective juror, you have some idea of whether he is innocent or guilty based on what you have heard, is that right?

A Yes.

Q Well, having in mind the fact that you have harbored this notion for some time, do you have any idea in looking at Doctor Sam Sheppard right now and presuming that he is innocent, does that give some difficulty in view of your opinion?

A I would still question it.

Q Pardon me, I didn't get your answer?

A I would still have to question that, I would have to hear the case to see if he is guilty or not.

Q I understand, but did you understand my question?



My question was whether or not because of the fact that you had an opinion one way or the other about this case, I ask you whether that gives you any difficulty in according to this defendant a presumption of innocence? Is there any conflict in your mind there?

A Well, I still don't know if he is guilty or not.

Q Do you have any more difficulty in looking at this man and giving him a presumption of innocence than you would somebody you never heard of in a criminal case?

A Yes, I would give him a chance, like this, I know him, you know.

Q What is that?

A What I have read in the paper I already know, so it is kind of hard.

Q Do you have in mind a number of details about the original case that you read in the paper, some of the facts?

A Well, I haven't been reading the paper lately.

Q But you have some recollection of the 1954 trial?

A Yes.

Q When it was fresh off the press, so to speak?

A Yes.

Q Did you read the Cleveland Press in those days?

A Yes.

Q And did you read any front page stories that they printed during the summer of 1954?

A Yes.

Q During the trial?

A Yes.

Q Would you say that the principal source of the information you have about the case came from the Cleveland Press?

A Yes.

Q So you read the facts that they offered?

A Yes.

Q Now, when you read these facts in the Cleveland Press, did you accept them to be true at the time?

A Yes.

Q And when you had discussions with your neighbors and friends, did you discuss the facts as you knew them from the Press?

A Yes.

Q And did you hear the neighbors and friends discussing those same facts?

A Yes.

Q You read, of course, that Marilyn Sheppard was killed, and Sam Sheppard was in the house, you read that he had a story to tell about it all?

A Yes.

Q Did you read anything about his professional life as a doctor, what kind of work he did?

A Yes.

Q Do you know what kind of doctor he was?

A Yes.

Q What kind?

A A surgeon.

Q Right. Now, did you read anything about his private life not connected with the practice of medicine?

A I think in the paper, but I don't remember.

Q You don't remember anything about his private life?

A No.

Q Did you read anything about the police investigation of the case and what they were doing?

A Yes.

Q Do you remember reading any editorials in the Cleveland Press --

A No.

Q --which suggested what ought to be done or what ought not to be done?

A No.

Q You never read any?

A No.

Q Do you read the Press today?

A Yes.

Q Do you read the front pages?

A Yes.

Q Do you read the front pages every day?

A Well, yes.

Q But you don't remember any editorials?

A No.

Q Did you form any opinion prior to the time Doctor Sam Sheppard was arrested on the first occasion?

A Yes.

Q After he was indicted and brought to trial before the trial began, did you have the same opinion?

A Yes.

Q After the trial was over and the jury reported its verdict back into court, did you have the same opinion?

A Yes.

Q And nothing happened to change it?

A No.

Q You learned, of course, a couple of years ago that a Federal Judge ordered that Doctor Sam Sheppard be released from jail, do you remember that?

A Yes.

Q Do you remember when he got out, did that do anything to change your opinion?

A Well, now you sort of question it.

Q I see. Do you think it diminished your opinion to any extent?

A Well --

Q Now, you read last June that our United States Supreme



Court had ruled the first trial was defective, didn't count, did that do anything to change or diminish your opinion?

A No.

Q That didn't influence you?

A No.

Q Did you read about it, were you aware of it?

A Yes.

Q Did you read any of the details?

A Just a little bit.

Q Did you understand the reasoning behind it all, from what you read?

A No.

Q Now, I take it that neither of these developments actually made you change your views completely --

A No.

Q --but they led you to question whether or not your opinion was correct, is that right?

A That's right.

Q Now, Mrs. Horndeski, if Judge Talty instructs you that as a matter of law that the first trial and that verdict, and all of the appeals including the most recent appeals combine to make up zero, nothing, that this whole prior proceeding is wiped out, meaningless, void, and that we are beginning to try Doctor Sheppard the same as any other criminal defendant, with nothing on against him, can

you exclude from your mind any memory of these things as far as letting them influence you in your decision in this trial?

A Well, if I heard it I would have my own opinion of it.

Q Well, not having heard anything --

A I mean, forgetting about what I read.

Q Can you forget about what you read, can you really wipe that from your mind?

A Well, I would always have it there, I could make my own opinion when I heard the case, though.

Q Of course, you don't have any direct knowledge about this whole affair, do you?

A No.

Q In other words, all of your knowledge was gained from some secondary source like a neighbor or newspaper or television?

A Yes.

Q Judge Talty is going to tell you if you become a juror who deliberates and decides this case, that all the information gained from those sources is not reliable, but that we rely only on evidence that comes out in court, in the presence of the defendant, and the lawyers present, to examine and cross-examine, and the Judge to rule, that is the reliable kind of information.

Now, if it should appear that something you remember, that you heard somewhere, contradicts a piece of evidence in this case that you would otherwise believe, do you think that you can disregard what you heard, forget about it, just assume that it is all false and not reliable, and depend wholly on the testimony in this case, in this trial, at this time?

A Yes.

Q When you are told at the end of the trial, if you are instructed as a juror, that this defendant is as of this moment presumed to be innocent, notwithstanding any indictments or arrests or anything that has gone on before, but presumed right now to be innocent, and that he stays that way unless and until the State of Ohio satisfies you beyond a reasonable doubt that he is guilty, can you accept that instruction?

A Yes.

Q Then you are able right now, are you not, to accord him the presumption of innocence just like any other defendant?

A Yes.

Q You will further be instructed, perhaps, if the circumstances dictate, Mrs. Horndeski, that the defendant in a criminal case has the important right to decide whether or not he will testify; if he wants to testify, he can do so, but if he decides he does not want to testify, he cannot be forced to testify, and beyond that, that no juror can draw any significance or inference whatsoever from his silence,

no juror can consider that as any sign or indication of guilt or that he has something to hide, or weigh it one smidgen against him.

Now, should it appear that the State of Ohio has some evidence to show that there was a murder, and to show that Doctor Sheppard was in the house, and Doctor Sheppard does not testify, he does not explain to you to tell you what he knows or what he remembers, and you have to decide this case as a juror, can you conscientiously decide the case on the evidence you heard without giving any weight or consideration whatsoever to Doctor Sheppard's silence, and without holding it against him in any way, can you do that?

A Yes.

Q By the same token, in addition to not testifying himself, there is no obligation on Doctor Sheppard to bring you evidence from any other source, and if he decides not to do so, and presents no evidence, but to decides to submit the case just on what the State has presented, and to challenge its sufficiency, again you will be told that is no indication that he is holding back, no indication that he is hiding something, and you may not use it, in order to determine his guilt, you may not draw any inference from it, can you follow that instruction conscientiously, and just put from your mind any consideration of why the defendant elected to present no evidence.



Now, if the defendant should decide to testify, you will be told that he has the same status as any other witness, he has a right to explain to you as fully and as fairly as the law will allow what he knows about this case, and that you have the right to believe all of what he says, if you want, or part of it or none of it.

You will further be told that he stands as any other witness, and that you are not to assume because he is the defendant that he probably isn't going to tell the truth anyway.

Now, if you are so instructed that the defendant is to be evaluated by you as fairly and impartially and as objectively as any other witness who takes the witness stand, do you think that you can do that and not hold against him the fact simply that he is the defendant in this case?

A Yes.

Q Do you have a family physician, Mrs. Horndeski?

A Not right now.

Q Have you ever been treated by a doctor?

A No.

Q Do you know what a medical doctor is?

A Yes.

Q Do you know what an osteopathic physician is?

A Yes.

Q Are you aware of any distinction in your own mind

between them?

A They are different.

Q You say there is a difference?

A Yes, sir.

Q Do you regard one as being either superior or inferior to the other, as far as competence and qualifications go?

A No.

Q In any event, no matter what impressions you may have carried with you into this courtroom, if the Court tells you that there is no legal difference between an osteopath and a medical physician, in the eyes of the law, they are precisely equal insofar as competence and education, and that the law makes no difference between them as experts, could you accept that instruction and evaluate their testimony without regard to any prejudice against the one or the other?

A Yes.

Q Mrs. Horndeski, if you are accepted as a juror, and Doctor Sheppard permits you to sit in judgment on his case, and you as of this moment, because of what you have been told, and the statements that you have made to us under oath, wipe out from your mind the opinion that you had all these years, and approach this case as if you had never heard of it before, can you do that?

A Yes.

MR. BAILEY:

Pass for cause.

THE COURT: Gentlemen, I believe the option is with the State of Ohio.

MR. CORRIGAN: May it please the Court, the State of Ohio is pleased with Mrs. Horndeski as an alternate juror.

THE COURT: The option is now with the defense.

MR. BAILEY: Thank you, your Honor. The defense is similarly pleased. We have no peremptory challenge.

THE COURT: Mrs. Horndeski, would you be kind enough to raise your right arm, stand, please.

Mrs. Horndeski, you do solemnly swear that if called upon to serve as a member of this deliberating panel, that you will well and truly try and a true deliverance make between the State of Ohio and the defendant Sam H. Sheppard, as you shall answer to God. Say I do.

MRS. HORNDESKI: I do.

THE COURT: Thank you, and will you please take this empty chair here, Mrs. Horndeski.

Gentlemen, may I see Counselors at

the side of the bench?

(Thereupon Counsel and the Court conferred at the Court's bench out of the hearing of the jury panel.)

THE COURT: Mr. Reed or  
Mr. Patrick, will you call our next prospective juror, please.

- - -