

MR. REED: Mrs. Pipoly, will
you please take the witness chair.

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THEREUPON, MARIAN PIPOLY, a member
of the prospective jury panel, having been
previously sworn, was examined on voir dire
as a prospective alternate juror, as follows:

THE COURT: Good afternoon,
Mrs. Pipoly.

MRS. PIPOLY: Good afternoon.

THE COURT: Is the correct
pronunciation of your name Pipoly?

MRS. PIPOLY: Yes.

THE COURT: It is spelled
P-i-p-o-l-y?

MRS. PIPOLY: That's right.

THE COURT: Mrs. Pipoly,
will you keep your voice at a level so that
each person in the room can hear your responses.

MRS. PIPOLY: I will try.

THE COURT: Thank you.

Mr. Romito must record your responses, and the
lawyers are duty bound to ask you questions
touching upon your qualifications to serve

as a prospective juror in this case.

Have in mind, Mrs. Pipoly, that you are under oath when you make your responses to these questions. Will you do that?

MRS. PIPOLY: Yes, I will.

THE COURT: Counselor Corrigan or Spellacy?

VOIR DIRE EXAMINATION OF MARIAN PIPOLY

By Mr. Corrigan:

Q Mrs. Pipoly, will you state your full name, please?

A Marian Helen Pipoly.

Q Where do you live?

A 4350 Lander Road, Orange Village.

Q How long have you lived there?

A Since May. We just moved there.

Q Where did you live prior to moving there?

A In North Randall.

Q And at what address?

A 2247 North Miles Avenue.

Q How long have you lived there?

A Almost ten years.

Q Before living there where did you live?

A On Manor, in Cleveland.

Q What was the address there?

A 9200.

Q How long did you live there?

A About eight years.

Q Where did you live in 1954?

A On Manor.

Q Are you married?

A Yes, I am.

Q Do you have a family?

A Yes, I have two sons.

Q Their ages?

A Fourteen and seventeen.

Q Is the seventeen year old boy in school?

A Yes, he is.

Q What type of employment is Mr. Pipoly engaged in?

A He is a letter carrier for Branch 18, Cleveland Heights Station.

Q How long has he been in the service with the Postal Department?

A About eighteen years.

Q Has he always been on at that particular station?

A Yes -- well, the first year I believe he was at the Main Station downtown.

Q Have you been employed outside of the household?

A Yes, I have.

Q How long ago?

A I am working now. The last seven years at Sears.

Q Sears, Roebuck?

A Yes.

Q In what capacity?

A Office clerk.

Q What branch store?

A At the Southgate store.

Q Pardon?

A Southgate store.

Q That is located where?

A At 21000 Libby Road.

Q You understand we are asking these questions not to pry into your personal affairs?

A Yes, sir.

Q But rather to determine your suitability to sit as a fair and impartial juror in this case?

A Yes.

Q Judge Talty told you when you came in with the other prospective jurors that this is the case of the State of Ohio against Sam Sheppard; you remember that?

A Yes, I do.

Q Do you know Doctor Sam Sheppard?

A No. I have seen him in the pictures, in the newspapers.

Q Do you know any members of his family?

A No.

Q Do you know Mr. Sherman or Mr. Bailey, his defense Counsel?

A No, I don't.

Q Do you know anybody connected with the Prosecutor's Office?

A No, I am sorry.

Q Are there any law enforcement people in your family or among your close acquaintances?

A No, there isn't.

Q In 1954 did you have occasion to read any newspaper accounts of this matter?

A Yes.

Q In what papers?

A Both papers, I believe, the Press and the Plain Dealer.

Q Did you have occasion to read something since 1954 in any newspapers?

A I don't -- probably I did have, but I don't --

Q Will you keep your voice up so that everybody in the room can hear you.

How about magazines, did you have occasion to read some magazines?

A I read them, but --

Q In connection with this matter?

A No, no.

Q Any books in connection with this matter?

A No, no.

Q Have you ever had prior jury service?

A I was called but they sent me a notice that I did not have to appear, the case was settled out of court.

Q Have you ever been a witness or a victim in any case, any criminal matter?

A No, I haven't.

Q Did you have occasion to discuss this case with anyone at any time?

A No, I haven't.

Q With your husband or any member of your family?

A Probably my husband but that would be about all.

Q In the discussion with your husband, did he express an opinion, or you expressed an opinion?

A No, just what the articles that were in the paper, that was all.

Q Predicated upon what you read in the paper have you formulated any opinion one way or the other?

A No.

Q Do you remember some of the items that appeared in the newspaper that were alleged facts in this case?

A No.

Q If you are selected as an alternate juror and ultimately if you become a juror and sit in deliberation on this case, would you be able to put out of your mind absolutely

and completely any material, any information that you may have from any outside source, and limit yourself solely to that which is produced in this courtroom?

A I would try, I mean, I haven't brought to mind any of this case, lately, anyhow.

Q If Judge Talty told you as a juror it would be your duty to limit yourself solely to that which occurs in this courtroom?

A That's right.

Q Because that which occurs in this courtroom would be reliable information as opposed to unreliable information that you would hear elsewhere, hearsay, something from some third or fourth party, and if he were to instruct you that it would be your function and duty to limit yourself solely to that which occurred in this courtroom, would you be able to follow that instruction?

A I am sure I could.

Q If Judge Talty were to instruct you that in a criminal case every defendant is presumed to be innocent unless and until the State proves the case against him beyond a reasonable doubt, would you follow that instruction?

A Yes, I would.

Q To put it another way, would you afford to this defendant as he sits here, a presumption of innocence unless and until the State overcomes that presumption beyond a

reasonable doubt?

A I believe so.

Q Judge Talty I anticipate will instruct you, too, that there are several kinds of evidence, direct evidence, and circumstantial evidence.

He will instruct you that direct evidence is that type of evidence that the witness knows by virtue of having perceived it through his senses, he has seen something or heard something or touched something or smelled something; he will tell you there is circumstantial evidence and that is the type of evidence wherein we arrive at conclusions that reasonably follow from a set of facts.

If he tells you that circumstantial evidence properly proven is just as good as direct evidence, will you accept and follow that instruction?

A If the Judge tells us --

Q If the Judge tells you, you will?

A (Witness nods.)

Q Do you know where Bay View Hospital is?

A All I know is that it is on the west side some place. I am an eastsider.

Q Do you know what kind of a doctor Doctor Sheppard is?

A I believe they said he was an osteopath?

Q Yes. Now, do you know the difference between an osteopathic physician and --

A No, I don't.

Q -- and a medical doctor, you do not?

A No.

Q If the Court instructs you that in the eyes of the law one is equal to the other, would you accept that instruction and follow that instruction?

A You mean if the Judge says?

Q If Judge Talty tells you that an osteopathic physician or surgeon is equal in the eyes of the law, as is a medical doctor or surgeon, will you accept that instruction?

A Yes, I would.

Q It may be that police officers will testify in this matter, or the County Coroner or some of his deputies.

Judge Talty will instruct you that it will be your function to determine the believability or the credibility to be affixed to each witness by employing your common ordinary every say sense and experience, in determining whether to believe all or a part or none of what a specific witness testifies to; would you follow that instruction?

A Well, I would weigh it out.

Q Beg pardon?

A I would weigh it out.

Q You would weigh it out?

A Yes.

Q So that just because somebody is a policeman, solely for

that a reason you wouldn't give him any more believability than an ordinary layman?

A No.

Q Or just because someone is a doctor, just because he is a doctor you wouldn't believe him more so than anyone else?

A If the judge says so.

Q If the judge so instructed you.

MR. CORRIGAN: Pass for cause, your Honor.

THE COURT: Counselor Bailey or Sherman?

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VOIR DIRE EXAMINATION OF MARIAN PIPOLY

By Mr. Bailey:

Q Did I understand you to say, Mrs. Pipoly, that the only person you had ever discussed this with was your husband that you can remember?

A Yes, I did.

Q None of the neighbors or anybody ever ventured any opinion as to whether or not Sam Sheppard was guilty or innocent?

A Oh, probably when it first appeared, but I mean --

Q I mean twelve years ago?

A Yes.

Q Do you recall any of these opinions?

A No.

Q Did you ever have any impression or feeling yourself or any sense as to whether or not Sam Sheppard was guilty or innocent back at the time when all this started?

A No, I didn't.

Q Did you read the news accounts closely?

A What appeared, yes.

Q What papers were you reading?

A I believe the Plain Dealer and the Press.

Q I understood you to say that at the time you read these news articles you were inclined to rely on the facts that were printed in them?

A That was the only ones I knew, yes.

Q Has your husband ever expressed to you any impression or sense or feeling that he might have about this case that you can recall?

A Not that I can recall, no.

Q I take it it hasn't been the subject of intensive conversation?

A That's right.

Q You are aware, of course, that there was a prior trial?

A Yes.

Q You remember reading about that. After the trial was over did you have any opinion at that time?

A Not that I can recall offhand, you know.

Q You have learned since that time that a judge has ordered that Doctor Sheppard be released and we have another trial?

A I know it now.

Q You didn't read about that in the papers?

A Well, I haven't been reading the papers, I'll tell you that.

Q In any event, if you sit as a juror, you will be told that the prior trial is -- for all we are concerned, for all the law is concerned -- a nullity, forget all about it, it is void, defective, and we are beginning again right back where we started and this man is presumed to be innocent the same way he was at the beginning of the first trial.

Do you have any difficulty in accepting that notion, that it is correct, if the judge tells you that that is the state of things?

A I will take what the judge says.

Q You understand that all of the rules that you are going to apply to this case, come from Judge Talty and only from Judge Talty, no matter what anybody else may think or even what you may think, he is the source of the law, you will accept that?

A That's right.

Q Also understand that as a juror you would be the sole judge of the credibility of witnesses, you would have the

power to decide who to believe and how much to believe them, if at all, and that would be your responsibility and yours alone as a juror, individually, would you be able to accept that responsibility?

A I would do my best, I will try.

Q In the course of your day to day experience, do you have occasion to believe or disbelieve, do you not?

A Yes.

Q Would you apply your common every day horsensense to your evaluation of witnesses the way you do in your own personal life?

A In my work, yes.

Q Now, in addition to the power to evaluate and decide the credibility of witnesses, you also would have the power to draw inferences based on your experience, that is, if two facts are proven to your satisfaction, which seemed to suggest to you the existence of a third fact, you would have the power to draw the inference and find as a fact that something happened, even though it wasn't witnessed by anyone who could report it, in other words, what Mr. Corrigan referred to I believe as circumstantial evidence?

A (No response.)

Q Would you be able to undertake the responsibility for performing that function, having in mind that you would be the sole judge of the facts, and what you do is not to be

reviewed by anyone else, but that you are the sole and final judge of what the facts in this case are?

A I wouldn't want that.

Q You wouldn't want that responsibility?

A No.

Q Well, Mrs. Pipoly, that is the responsibility of a juror, every juror in this case, and it is a power that is reserved to the jury, to weigh the facts, to say what the facts are, and Judge Talty can't interfere with it, nobody can; and my inquiry is whether or not you realize that this will be your function, and feel that you can accept the responsibility to discharge it, knowing that you are the only one as one of twelve who can decide these facts.

Is there some reason, having this in mind, that this duty will perhaps fall on your shoulders if you are promoted to the jury panel?

A No.

Q That you would rather not serve?

A No, I didn't say that. You would have the other twelve backing you, more or less.

Q All right, the next question. Supposing after you had heard all the evidence, and the trial judge had given you the instructions of law to be applied in this case, and you are engaged in your deliberations and had discussed the matter and gone over the evidence and talked with the other

jurors, supposing your judgment as to what the facts were was not in agreement with the majority of the other jurors, but nonetheless you felt that you were right in your own heart, do you think that you would be inclined to stick by your own judgment or that you would be inclined to vote with the majority just because they were the majority?

A I think I would voice my views first.

Q But if after voicing your views you fail to convince anyone, and yet yourself remain satisfied that your judgment was correct, even though it was not the majority view, would you as a juror be able to stick to it, or would you feel forced to vote with the majority just so we could have a verdict in this case?

A I would try to stick to my view.

Q Well, let me put it this way: If Judge Talty tells you that it is your duty in the final analysis, even though you must search for all of the facts and discuss the matter fully and listen attentively to the views of your other jurors, if he tells you that it is your duty to vote your own judgment, and that is why you are one of twelve, will you be able to do that, your own judgment?

A (No response.)

Q Are you able to tell us today, Mrs. Pipoly, that nothing in the past, whatever you may have heard about this case or have known about it, is going to interfere with

your ability to regard the guilt or innocence of Sam Sheppard as a matter that is beginning right now to be decided, and a matter wherein the past is meaningless, will you be able to view it that way?

A I would.

Q That is to say, that he is to be presumed notwithstanding the fact that much has been printed or said about it, just as innocent as any other defendant whose name you never heard who might sit in this chair on trial?

A (Witness nods.)

Q Now, the Court has told you that the indictment is no evidence against him, and will tell you that the fact that the police arrested him at one time does not mean that there is some indication that he is guilty or that the police only arrest people when there is some reason to think they are guilty, but all of that counts for nothing, and that every bit of the evidence to be considered against Doctor Sam Sheppard must come into this courtroom from that witness stand, and be passed upon by this trial judge, or it is no part of this case, will you be able to accept those guidelines and abide by them?

A I think I would be.

Q Supposing the defendant Doctor Sam Sheppard doesn't testify. Now, have you somewhere in the past read an account of what his story was, what he told the authorities, or what

he testified to as to the events of the night of the murder, do you have any recollection of the story that he told?

A I think I have.

Q Well, in this case, Mrs. Pipoly, the defendant Sam Sheppard has no obligation to testify; as a matter of fact he has a right in the law to remain silent, and this information will come to you from the Court -- don't take my word for it -- but supposing he does not testify, supposing that he remains silent, even though you are satisfied that he was on the scene and ought to know something about it, and yet supposing in the face of that silence you are instructed that as a juror you can't attach one bit of significance to that fact, you can't count it against him as an indication of guilt, can't even draw an inference from his silence, could you abide by that instruction from the Court and not consider that there was something suspicious about his failure to testify?

A You mean on his own behalf?

Q Yes.

A I believe if the judge told me to, I would.

Q I noticed you had some reservation; did you find it difficult to accept the fact that he had a right to remain silent and it wouldn't be an indication?

A Yes.

Q You did. Well, do you think you would have some

difficulty applying this rule to your deliberations of the case, that is to say, keeping out of your mind any notion that, "Gee, he wouldn't have stayed off the witness stand if he could afford to tell us his story," or something along that line that might influence you, do you think that might keep creeping in?

A Yes.

Q In other words, even though the judge told you this is the law and these are the rules of this and every other criminal case, you feel it would bother you if he didn't at least get up and explain what he knew about it, is that right?

A Well, in his behalf, yes.

Q Well -- may we approach the bench?

THE COURT: Yes.

(Thereupon counsel and the Court conferred at the Court's bench out of the hearing of the jury panel, as follows:)

MR. BAILEY: If it please the Court, I am about to challenge this woman for cause, based on her difficulty in accepting what will probably be the cardinal rule of your instructions to the jury in this case.

Now, on prior occasions following the challenging for cause, your Honor has indicated

that counsel should proceed in accordance with the instructions of the Court, and I have been a little uncertain as to just what you mean. I can't at the moment see how I can go any further on this point with this witness, and it kind of leaves counsel in a tough spot when you leave that ruling and I have to abandon the line of questioning.

THE COURT: Counselor Corrigan or Spellacy, do you wish to speak?

MR. CORRIGAN: I think it is quite natural, if you ask a prospective juror cold, "Can you afford them the presumption of innocence unless proven guilty beyond a reasonable doubt, can you draw no inference whatever from their failure to take the stand, and their right not to take the stand," the obvious answers to these, I think, in most instances are that they must draw some inference, they cannot necessarily presume them to be innocent.

The question, however, that must be put to the prospective juror is if the Court instructs you notwithstanding that which is natural, can you follow the instructions of the law, and if they indicate that they can, I don't know how

you can go beyond that.

MR. BAILEY: Well, I say it is a tough rule to ram down the throat of a citizen.

THE COURT: I think you can pursue it, counselor, in the manner of bottoming your question on her ability to follow the court's instructions, that if this defendant does not take the stand, if you will explain to her, which you have not, in my opinion, at least while you have made general reference to it, I don't recall you explaining to this prospective juror as you have to others, that the defendant has a Constitutional right not to take the stand, I think if you pursue your line of inquiry along those lines, explain to her his Constitutional right, and that the Court will instruct her, or instruct this jury, as to his Constitutional rights, I think you then would be pursuing a line of inquiry most likely to produce a response that represents her state of mind.

MR. BAILEY: Well, it certainly is a proper question, your Honor. I am a little concerned, because she has indicated a genuine difficulty which is not unnatural, but she has also indicated almost a blanket submission to almost

anything the Court would tell her, even if the sun is shining in the midst of a rainstorm. I am leary of that one point, but I will ask an additional question.

THE COURT: If you want to make your challenge for cause now, so that you will not --

MR. BAILEY: I do, but I don't want to--

THE COURT: I understand.

MR. BAILEY: I will make it at the bench and let you rule on it here.

THE COURT: I will reserve my ruling on this challenge for cause now, asking you to pursue your line of inquiry further along the lines explaining his Constitutional rights as you have with other prospective jurors.

MR. BAILEY: May I do this, your Honor, I think on a prior occasion you turned to the juror yourself and said, "I want you to understand that the Court will instruct you this is the law." She is responsive to anything you might say. I think if you do that at this point it might settle it in her mind and then she will be able to answer the question. It is likely you are going to have to give the instruction

ultimately anyway. This was done I think on this question with a prior juror. I thought perhaps if you questioned her on that point generally I would be satisfied with that.

THE COURT: I will put a question to her and you may pursue it.

MR. BAILEY: All right.

(Thereupon proceedings were resumed within the hearing of the jury panel, as follows:)

THE COURT: Mrs. Pipoly, if the Court instructs you, and the Court will instruct you, if you become a member of this deliberating panel, if you become a member of this panel, the Court will instruct you that the defendant here in this case, as every other defendant, has a Constitutional right not to take the stand if he so chooses, and if he should so choose in this case, and the Court were to further instruct you that you are to draw no inference of any fashion, or not in any manner or wise to hold this against the defendant, would you follow these instructions from the Court?

MRS. PIPOLY: If the Court instructed me, I would, yes.

MR. BAILEY: Thank you, your Honor.
Thank you, Mrs. Pipoly.

By Mr. Bailey:

Q Notwithstanding the right of the defendant to remain silent, there is no requirement that he do so, of course, if he does present some evidence for your consideration, will you be able to retain an open mind as to this entire question of the defendant's guilt until all the evidence is in, and listen to the defendant's evidence as attentively and with readiness to receive it as you would evidence from the State of Ohio?

A 1 Yes, I would.

MR. BAILEY: Thank you. Your Honor, we will pass the lady 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 satisfied with Mrs. Pipoly as an alternate juror.

THE COURT: Counselor Bailey?

MR. BAILEY: The defense is also satisfied with Mrs. Pipoly as an alternate juror.

THE COURT: Mrs. Pipoly, would you be kind enough, please, to stand and raise your right arm. Mrs. Pipoly, you do solemnly swear that if called upon to serve as a juror in this case, and become a member of the deliberating panel,

that you shall well and truly try and true deliverance make between the State of Ohio and the defendant Sam H. Sheppard, as you shall answer to God.

You will answer, "I do."

MRS. PIPOLY: I do.

THE COURT: Mr. Reid, will you pull up a chair at the end of the jury box; and, Mrs. Pipoly, would you be good enough to take that chair, please.

(Thereupon the following proceedings were had at the Court's bench out of the hearing of the jury, as follows:)

THE COURT: Gentlemen, as I understand it, you have no further peremptory challenges with respect to Mrs. Pipoly; is that right?

MR. CORRIGAN: That's right, your Honor.

MR. SHERMAN: That's right.

THE COURT: Now, gentlemen, recalling our conference earlier this morning in Chambers, it is my understanding that it is agreeable with both sides that the Court now excuse Mr. Tenerovich, in open court, and substitute for Mr. Tenerovich alternate juror number one, Mrs. Koch. Is that your understanding, gentlemen?