

Tuesday Morning Session, 9:15 a.m., November 1, 1966

(Thereupon the following proceedings were had in the absence of the jury:)

THE COURT: Are we on the record, gentlemen?

Mr. Bailey, you will recall that late yesterday afternoon this Court swore four bailiffs who will be in charge of the jury, and at that time the defendant was not present.

Do you wish to have the defendant speak to the record, please?

MR. BAILEY: I do, your Honor. When the bailiffs were sworn the defendant had left the building, and I had requested the Court to permit the swearing to take place without the presence of the defendant, waiving his right as counsel.

I would now like the defendant to speak personally into the record ratifying that.

Doctor Sheppard, are you in agreement that whatever right you may have had to be present when the bailiffs were sworn, you are willing to waive?

THE DEFENDANT: Yes, sir, I do.

MR. BAILEY: All right.

THE COURT: Thank you, gentlemen.

Let the record show that the jury will visit the scene involved at 28924 Lake Avenue, Bay Village, including the residence thereon.

The request to visit the scene was made by motion of both parties herein involved, and the Court now grants the joint motion.

Let the record further show that the family now occupying these premises, and this family has been occupying these premises for the last eleven years, in making them their home, this family has requested the Court to cooperate with them, and assist them in keeping persons other than those authorized by the Court from either visiting the scene, or going on to their private premises.

Accordingly, the Court orders that only the jury, the court bailiffs in charge of the jury, the lawyers for the parties, and the defendant if he chooses to visit, will be permitted on the scene.

All other persons are forbidden to visit the premises for any reason.

There are now on the scene several deputy sheriffs of Cuyahoga County who have been instructed to apprehend trespassers who will be deemed in violation

of this order and in contempt of this Court.

Mr. Patrick and Mr. Reed, would you call the jury, please?

(Thereupon the jury was brought into the courtroom, and the following proceedings were had in the presence and hearing of the jury:)

THE COURT: Good morning, ladies and gentlemen.

JURY: Good morning.

THE COURT: Ladies and gentlemen, the Court has granted a motion submitted by both parties that you be permitted to view the scene. Both parties have requested that you be permitted to visit the scene of this alleged occurrence, and accordingly under Ohio Revised Code Section 2945.16 the Court has granted the motion jointly submitted.

Now, ladies and gentlemen, you will visit the scene involved in this case. You will be under the supervision of the bailiffs, Lawrence Patrick and Richard McDonnell, at all times, and you will remain together at the scene until you are returned to this courthouse.

Counsel and the defendant may accompany you, but may not discuss this case or demonstrate anything relating to it.

The bailiff, Lawrence Patrick, will call to your attention features which have been previously requested by counsel and which have been reviewed with counsel by this Court.

Now, ladies and gentlemen, what you see at the scene is not evidence. The conditions may or may not have changed since the time of the events in this case.

The evidence as to the physical appearance of the scene must come from the witness stand.

The sole purpose of this view is to help you understand the evidence as it is presented during the trial.

The defendant has the right to accompany the jury on this view, and he is now advised that he may accompany you if he so desires.

Counselors, is there anything further?

MR. CORRIGAN: Not on the part of the State, your Honor.

MR. BAILEY: Nothing from the defense, your Honor.

THE COURT: Ladies and gentlemen of the jury, before excusing you, or, before turning you over to the control and supervision of the bailiffs that have been sworn to be with you during

this trial, the Court again admonishes you that you shall not discuss this case or what little you know of it even amongst yourselves.

You shall not permit anyone else to discuss it with you, nor shall you permit yourselves to overhear anything that relates to this case by any means or media of communication.

Mr. Patrick, you will now make arrangements to have the jury escorted to the scene.

(Thereupon the jury was taken to view the scene.)

(Thereupon at 12:20 p.m. the jury was returned to the courtroom, and the following proceedings were had:)

THE COURT: Good afternoon,
ladies and gentlemen.

JURY: Good afternoon.

THE COURT: Ladies and gentlemen,
arrangements have been made for you to have your lunch together, and while you are together at meals and otherwise, I would like you to know the people who have been sworn by this Court to be with you and will be responsible for your needs, and your accommodations, to the extent which it is humanly possible to accommodate your needs under these circumstances, and also people who will be under

the instructions and directions of this Court to take care of you as a jury throughout the course of your service here.

Sitting on my left is Miss Mary Grealis, who has been sworn. Mary has been employed, is a long time employee of our court. Miss Mary Grealis.

On Mary's right is Mary Loretta Stanton who is also an employee of our court. They will be available to look after the needs of the ladies on this jury.

And you have already met Mr. Dick McDonnell, who is also a long time employee of our court; and, of course, Mr. Larry Patrick, the bailiff in this room, who will be also with you throughout the course of your service.

These people, one of them at all times, will be available to the ladies, and one at all times will -- at least one will be available to the men. Sometimes all of them will be with you at your service. They will be with you at luncheon this afternoon, and luncheon accommodations have been made for you. Because it is your first time together, and the hour is now twenty minutes past twelve, rather than convene at the customary time which we hope to convene at 1:30, we will convene this afternoon following

your luncheon recess at 2:00, at which time you will hear the opening statements in this case of counsel.

While you are away on this recess, ladies and gentlemen, you will bear in mind the instructions given you previously, and which you will hear on many other occasions, and that is you shall not discuss this case even amongst yourselves, what you know of it; you shall not permit anyone else to discuss it with you, nor shall you permit yourselves to overhear anything that relates to this case by any means or media of communication.

And I will have more to indicate to you this afternoon with respect to the accommodations at the Statler Hotel where you will be housed.

We will stand recessed for lunch now.

(Thereupon an adjournment was taken to 2:00 p.m., Tuesday, November 1, 1966, at which time the following proceedings were had:)

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