

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

DIRECT EXAMINATION OF CYRIL M. LIPAJ

By Mr. Parrino:

Q Will you state your name, please, sir?

A Cyril M. Lipaj.

Q Where do you live?

A 27895 Lincoln Road, Bay Village.

Q What is your occupation, please?

A That depends on the time of the year. Throughout the school year, nine months I am a school teacher. In the summertime I am a full-time policeman.

Q Where do you teach school?

A Bay Village High School.

Q And what subject do you teach there?

A Mechanical drawing and assistant football coach.

Q You say you are the assistant football coach at Bay Village, is that right?

A Yes.

Q I guess we all ought to congratulate you for a highly successful season.

A Thank you.

Q Now, during the summer months you are employed as a police officer in Bay Village, is that correct?

A Yes, sir.

Q And during the summer months, is that a full-time job?

A Yes. We take over as the other men go on vacation.

Q Now, calling your attention to July 4th, you recall the events of that day, of course?

A Yes. I was assigned to the Sheppard house after five o'clock that evening.

Q And what were you doing there at the Sheppard home that night?

A Well, we were just supposed to keep people away from the house and take care of the house in general.

Q Now, how long did you remain there after five o'clock, p.m.?

A Up to about three o'clock in the morning or four o'clock, and then I was relieved.

Q And by whom were you relieved, if you recall? By another Bay Village police officer?

A No. He wasn't an officer, he was assigned by the -- I guess he was Civilian Defense or something. He works with the village. He is a deputy.

Q Now, during the course of -- withdraw that.

Directing your attention to the back door or the door on the south side of the Sheppard home, do you recall which one I am talking about, sir?

A Yes.

Q Would you describe that door, please, as to how it is locked?

A The only lock we had on it that day was a night latch.

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Q And where is that night latch located on that door?

A Oh, about a yard off the floor.

Q I see. Now, during the course of that night did something unusual occur insofar as that night latch is concerned?

A Yes. The night latch was broken off by one of the Bay Village officers.

Q Now, describe what happened.

A Well, I was -- when Chief Eaton told me to take over the house, he told me to guard the beach, also. The only possible way of locking the front door was with the night latch.

Q Now, who put the night latch in place?

A I did.

Q And what time did you do that?

A Right after -- I'd say about 5:30.

Q And what was the condition and appearance of that night latch when you put it in place at that time?

A Well, nothing was wrong with it. It was in order.

Q Then what happened later that night?

A Between the hour, I'd say, of 7 and 8, I was sitting in the front room, and Sergeant Hubach came back and tried to get into the house, and, of course, the night latch was on, and I don't know whether he thought something was wrong with me on the inside or what, but he tried

knocking down the door, and the night latch -- the screws and all were loosened on the door, and I yelled to Sergeant Hubach and I told him I'd take the latch off.

2 So when I got to the door, I noticed that the screws were at least halfway out and three-quarters of the way out , and some of them had dropped already, and when he came in we put the night latch back on, and that was at 8 o'clock, I would say.

And sometime between 8 and 10 there were three other officers that came into the house, and one of them, in pushing the door open -- I mean, the latch came off so easily that I don't think he even knew he knocked the latch off.

Q And were you in the home from the time that Hubach put his shoulder to the door until the night latch came completely off?

A Yes. Sergeant Hubach was in the house at the same time.

Q You were in the home all that time?

A Yes.

Q Now, will you describe that night latch, please, as to its appearance?

A Well, it is a typical latch with about, I think it has a half-inch chain on it, and the one part is, of course, on the wall, and the other part is on the door, and the part that is on the wall is the part that was torn off the

wall. I guess it was held on by about a half-inch screw -- by three or four half-inch screws.

Q Now, from time to time did you have other duties to perform there as a police officer around that home?

A Yes. I was in charge of a group of city employees to -- well, police the area looking for different things around the grounds.

Q And when did your work begin in that respect?

A Well, we started actually July the 5th, early morning July the 5th, and continued on for almost 10 days to two weeks after that.

Q And what did your work consist of?

A Well, --

Q Describe the search that was made, and so forth.

A Well, I had four or five of the village employees, and we went up and down the beach and down the hills and into the water just searching everything about, oh, I would say 5,000 yards either side of the Sheppard residence.

Q Showing you what has been marked for identification as Defendant's Exhibit DD, will you look at that object, please, and tell us if you recognize that?

A Yes. That is a T-shirt that was found by one of the city employees off of Schuele's beach.

Q And when was this T-shirt found -- withdraw that.

Where were you at the time this T-shirt was found?

A About 10 feet away from Jack Furr, one of the employees who found the shirt.

Q And where was this T-shirt at the time it was found?

A It was in the water stuck in a piece of reinforced wire for the concrete pier, and when Jack found the shirt, he called me over, and I had to go into the water. It was in about a yard of water, about six inches off the ground, this piece of wire that was sticking out. It was stuck on that, and I had to go into the water to get this shirt out.

Q Just where is this pier located, that you describe?

A Well, the Schuele residence is the first one to the west of the Sheppard residence and, well, the beaches are located together, and actually the pier is the boundary line between the Schueles and the Sheppards.

Q Now, do you see a tag on this T-shirt, sir?

A Yes.

Q Will you read that, please?

A "Jockey T-Shirt, Coopers, large 42 and 44 regular."

Q Now, what did you do with this after it was found?

A I gave it to Patrolman Smith, and he brought it in to town to give it to Mr. Gerber.

MR. PARRINO:

Mark this State's

Exhibit 52.

(State's Exhibit 52 was marked for identification.)

MR. PARRINO: At this time I want to offer what has been marked for identification as State's Exhibit No. 52, the T-shirt.

THE COURT: Wasn't it marked before?

MR. PARRINO: It was marked before. I don't believe it has been offered, your Honor.

THE COURT: Can't we use the same marking?

MR. PARRINO: It has not been offered.

MR. MAHON: It has been identified, but was never offered.

THE COURT: Wasn't it marked by number?

MR. MAHON: It was marked by letter. The defense had it marked. It has not been offered. Now we are marking it as State's Exhibit.

THE COURT: All right, it will be received.

(State's Exhibit 52 was offered and received in evidence.)

Q Now, this T-shirt that I have just been showing you, Officer, was marked for identification as Defense Exhibit DD, and is now marked for identification as State's Exhibit No. 52. This is the same shirt that we are talking about, is it, sir?

A Yes.

Q Now, do you recall the date on which that shirt was found?

A About 11 o'clock in the morning, July the 14th.

Q Now, did you have any other duties to perform insofar as this case is concerned, Officer?

A Yes. I worked with the man from Columbus with the mine detector, and also with the divers, and also took a turn at the hospital.

Q When you say you took a turn at the hospital, what do you mean?

A Well, we would work at 8-hour shifts at the hospital. Someone was at the door of the room at all times.

Q At what door?

A At Dr. Sam's door.

Q And when did you first begin doing that?

A I believe that was July the 5th.

Q And what was your specific assignment, instructions in that regard?

MR. CORRIGAN:

I object.

THE COURT:

He may state what his

specific duties were.

Q What were your duties, sir?

A Well, we really didn't have any specific duties. We were mainly supposed to keep the newspaper men out of the room, and to use common sense as far as who else went into the room.

Q Now, did you prevent any of the Sheppards from going into that room?

A No.

Q Did you prevent any of the nurses from going into that room?

A No.

Q Did you prevent any doctors in the employ of the Sheppards from going into that room?

A No.

Q Did you prevent any of the defendant's lawyers from going into that room?

A Just one, but at the time I didn't know he was with the law firm.

Q And who is that, please?

A Young Corrigan.

Q And you say that you didn't know who he was at the time?

A That's right.

Q As to Mr. Corrigan, Sr., did you prevent him at any time from going into that room?

A No.

Q As to Mr. Garmone, did you prevent -- was he on the scene at the time?

A I don't believe he was.

Q As to Mr. Petersilge?

A No.

Q Now, did you see Dr. Richard and Dr. Steve going into that room at any time, sir?

A Yes, quite often.

Q Now, who would bring the meals into Dr. Sam during the time that you were there?

A Well, there wasn't any specific person. Sometimes -- oh, they have student nurses, I guess. They would take the meals in, and other times Dr. Steve or Dr. Richard would take them in or the regular nurses. There wasn't anyone specific that would take it in.

Q And did your duties relate to the fact that Dr. Sam Sheppard could not leave that room?

A No. No one said anything about that. He stayed in the room at all times ~~that~~ I was there.

Q Now, calling your attention to the 7th of July, did something unusual occur on that day while you were on guard?

A Yes. He had a couple of visitors, outside of the regular family.

Q And who were they, please?

A Otto Graham and the Mayor.

Q Did you see Hoversten there on the scene at any time?

A Yes, but I believe he was there the day before.

Q Did he go into the room?

A Yes.

Q Now, on the 7th, did you see Dr. Steve at any time?

A I believe -- I'm not sure on this -- but I think -- it was either Dr. Steve or Dr. Richard who took the Mayor and Otto into the room.

Q Now, was anything else taken into that room at any time there on the 7th that you recall?

A I believe that was the day they brought the record player in.

Q And who brought the record player into Sam's room?

A Dr. Steve.

Q And what was done, if anything, at that time?

A Well, after that we had some classical music. It seemed to be played at all times.

Q And where was this music played?

A In Dr. Sam's room.

Q Now, for how many days did you continue in your work as a guard there at that door?

A As long as Dr. Sam was in the hospital.

Q And when you were not on duty, were there other police officers on duty also?

A Yes. We took an 8-hour shift.

MR. PARRINO:

You may inquire.

CROSS EXAMINATION OF CYRIL LIPAJ

By Mr. Garmone:

Q Mr. Lipaj, you are the backfield coach, are you, of the high school team?

A No. The defensive coach and end coach.

Q And how long have you been connected with the school system out at Bay Village?

A I am starting my fifth year now.

Q During that period did you become acquainted with Dr. Sam Sheppard and Marilyn Sheppard?

A Yes, I did.

Q And when would you say that that acquaintance began?

A The first year we were there.

Q That would be five years ago?

A Five years ago.

Q And how many times were you in the company of Sam and Marilyn, to the best of your recollection?

A You mean during the course of the five years?

Q Five years.

A A matter of a dozen times, or so.

Q Did you attend any social functions with them?

A Yes. Our high school football bankquets.

Q At all times that you were in the company of Sam and Marilyn, you never saw Sam mistreat Marilyn, did you?

A No, sir.

Q You never saw him lose his temper toward Marilyn, did you?

A No.

Q Were you ever in Sam's company when Chip was about?

A Yes.

Q About how often?

A About three or four times.

Q And in those three or four times, Sam was always -- he never mistreated Chip, did he?

A No.

Q From your observations over that five-year period in the number of times that you saw him at different affairs, he always displayed an even temper, didn't he, Mr. Lipaj?

A Yes, sir.

Q Now, your duties began at the hospital about what day?

A I believe it was July the 5th.

Q That was the day after?

A Yes.

Q Were you assigned outside or were you in the room?

A Outside the door.

Q Outside of the room. Now, you testified here in response to Mr. Parrino's questions about the many visits in and out of the room that Dr. Steve and Dr. Richard made, is that

right?

A Yes, sir.

Q And Otto Graham and Mayor Houk?

A Yes, sir.

Q And Dr. Hoversten?

A Yes, sir.

Q How many times while you were on duty did Schottke and Gareau of the Cleveland Police Department go in and out of that room?

A I believe once, and that was only after they threatened with a subpoena.

Q Schottke and Gareau?

A No. I don't believe I have -- no, I was thinking of Rossbach and Yettra.

Q You were thinking of Rossbach and Yettra. Did you talk to anybody about your testimony before you came into this courtroom this morning?

A I don't know how you mean that.

Q Well, did you go over with either Mr. Mahon, Mr. Danaceau or Mr. Parrino about what you were to testify to before you came into court this morning?

A I talked to them, but not about what I was supposed to testify.

Q Well, when I just asked you the question how many times

Schottke and Gareau had been in and out of that room, why did you confuse your answer and respond about Rossbach?

MR. PARRINO: Objection.

THE COURT: Yes. Objection will be sustained.

Q Now, this door latch that you talked about at the home, that was intact, was it, when you first went on duty?

A Yes, sir.

Q While you were inside of the home and carrying on this obligation for the community, did you always remain on the first floor of those premises?

A No, sir.

Q Did you walk upstairs?

A Yes, sir.

Q Downstairs?

A No, sir.

Q Well, did you walk around the living room portion of the downstairs premises?

A All the rooms downstairs.

Q As a matter of fact, you walked in and out of the den many times, didn't you?

A A few times.

Q Well, now, will you tell this Court and jury what were some of the articles that you came in contact with or

touched during your tour of that home, both upstairs and the living room and den portions of the downstairs?

A The only two things I touched was a magazine and a television.

Q You touched them both?

A Yes, sir.

Q Did you see some papers strewn around the floor in the living room?

A Yes, sir.

Q Did you touch those?

A No.

Q Did you touch anything in the den?

A No.

Q Now, to get into the den did you have to walk beyond the medicine bag that was somewhere close by the entrance of the den?

A Yes.

Q Did you ever come in contact with it?

A No.

Q You are sure of that?

A Yes, sir.

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- Q Now, the first time that you saw Rossbach was on what day?
- A July 5th.
- Q And where was it?
- A I believe that was at the Sheppard home.
- Q And then did you later see him at another place?
- A At the hospital.
- Q And what day was that?
- A I believe that was also on July 5th.
- Q Did he go into Sam's room?
- A No.
- Q Did he at any time on that day go into Sam's room, to your knowledge?
- A Not while I was on duty.
- Q Not while you were on duty. Did you go back on duty on the 6th?
- A Yes, sir.
- Q Did you see Rossbach go into the room on the 6th?
- A No, sir.
- Q Were you on duty on the 7th?
- A Yes, sir.
- Q Did you see Rossbach go into that room on the 7th?
- A I don't believe so.
- Q What were the hours that you guarded that door on the 5th, 6th and 7th, to the best of your recollection?
- A I believe it was between four and midnight.

Q Four and midnight. Between those hours you didn't see Rossbach go into that room, is that right?

A No, sir.

Q Now, while you have been actively engaged as coach of the Bay High School team, whenever there was a player injured, that player was turned over to Dr. Sam to be treated, wasn't he?

A Yes, sir.

Q And you never found him failing when he was called upon to administer aid to any injured football player, did you?

A No, sir.

Q Regardless of the time of day, is that right?

A That's correct.

Q He was always available to you, was he not?

A Yes, sir.

Q And that was a service that he rendered without any charge, wasn't it, Mr. Lipaj?

A As far as I know.

Q Now, you say that on the 7th of July there was some kind of a rig put together that you described as a mine detector?

A Well, it was later than that. Oh, I would say it was closer to the 20th of July than the 7th.

Q And were you present when this rig was operated, put into use?

A Not all the time. I was one of the officers assigned to it.

Q Well, during the times that you were there, did it bring anything up?

A Oh, little pieces of pipe and nails.

Q Anything else?

A No, sir.

Q When you say "little pieces of pipe" will you give me a general idea of what size the pipes or pipe may have been? You are talking about a pipe made of iron, are you?

A Yes.

Q And about how big were these pipes?

A They varied in size. Some were very small and then others were used for, oh, I guess pier blocks.

Q Well, about what were the size of them?

A I would say we found about four, and they varied in size from probably about six inches -- I think there was one about six inches and the others were 14 inches, and then we also found one larger, about 18 inches -- no, about 20 inches.

Q Did you turn those pipes over to anybody?

A Yes. I turned them over to Patrolman Drenkhan.

Q When were they turned over to Drenkhan?

A I believe that was on that afternoon.

Q That would be about the 14th of July, you say?

A No. It was a little later than that. It was on a Sunday.

Q Around the 20th of July?

A Around the 20th, whatever day was a Sunday.

Q Have you since the time this detector brought this metal up seen any of the pipes?

A No, sir.

Q Now, the T-shirt that was handed you this morning is marked as State's Exhibit 52 --

MR. CORRIGAN: That is also a
Defendant's Exhibit.

Q -- and also identified as Defendant's Exhibit DD. You were present when this was found?

A Yes, sir.

Q Now, the Schuele home is located west of the Sheppard home, is that right?

A That's correct.

Q That is the home right next door to the home that was occupied by Marilyn and Sam, isn't it?

A That's correct.

Q Now, how far from the retaining wall would you say that this exhibit was found?

A Oh, about 20 feet off the beach.

Q 20 feet off the beach, north of the retaining wall?

A Yes.

Q And about how far in the water was it necessary for the person that went in to get it to travel, about how many feet?

A Between two and a half and three feet.

Q After the T-shirt was found, what, if anything, did you do with it?

A Well, I went into the water and took it out and held it up to examine it, and then gave it to Patrolman Smith, and he brought it down to Dr. Gerber.

Q Took it down to Dr. Gerber?

A Yes, sir.

Q Do you know, Mr. Lipaj, whether this shirt was ever shown Dr. Sam Sheppard?

A No, sir.

Q What date was the T-shirt found?

A July 14th.

Q July 14th. After you turned the shirt over to Dr. Gerber, did he ever take you to where Sam could be interviewed to confront him with the T-shirt that you found in the lake?

A No, sir.

Q Have you seen this T-shirt from the day that you found it until today?

A No, sir.

Q And you don't know what was done with it, do you?

A No, sir.

Q After you turned it over to Dr. Gerber, that is?

A No, sir.

MR. CORRIGAN:

Well, he turned

it over to Smith, he said, not Dr. Gerber.

MR. GARMONE:

Smith, who

turned it over to Dr. Gerber.

Q Was there any other property found during the period of search?

A No, sir.

Q Nothing at all?

A Not as far as property.

Q Well, was there any other objects found?

A Oh, there was a large piece of circular tubing or pipe.

Q Where was that found, Lipaj?

A Also on the Schuele residence.

Q What was done with it, if anything?

A That was turned in to Patrolman Drenkhan.

Q Do you know whether or not, as far as you know, anything was ever done with that tubing?

A I believe they brought it down here into Cleveland somewhere.

Q And you haven't seen it since?

A No, sir.

Q Have you ever been interviewed by any members of the Cleveland Police Department as to where the tubing was found?

A I had a note, the same as I do on the shirt, as to where it was found, but I was never interviewed about it.

Q Were you ever talked to about it?

A Just by I guess Gareau and Schottke.

Q Where was that?

A At the Sheppard residence.

Q At the Sheppard residence. Inside the home?

A Well, inside and outside the home.

Q Now, was there any other articles found -- I will withdraw that.

Were you present when a handkerchief was found?

A No, sir.

Q Were you present when a pair of glasses were found?

A No, sir.

Q Well, were there any other articles found while the search that you participated in went on?

A No.

Q Nothing at all. Was there any wearing apparel found other than Exhibit 52?

A No, sir.

MR. GARMONE: I believe that
is all.

MR. PARRINO: That is all. No
further questions.

(Witness excused.)

THE COURT: Ladies and gentlemen
of the jury, we will have a few minutes' recess at
this point. Please do not discuss this case.

(Recess taken at 10:35 o'clock, a.m.)