

(Thereupon a panel of prospective jurors was brought into the courtroom.)

THE COURT: Good morning, ladies and gentlemen. The Court wishes to welcome each of you for and on behalf of all the citizens of our community.

We know that you come here at personal sacrifice to yourself and to your families, to participate in our form of government. We know that without you the American way of life at least in the judicial branch as we experience it this morning could not function.

This morning you sit as prospective jurors or members of a prospective jury in the highest trial court in the State of Ohio, and we wish to commend you for your willingness to participate in this most important and ennobling work.

We will try to make your stay in this building as comfortable and as convenient and as commodious as the physical limitations of this building permit.

Ladies and gentlemen, I am not going to ask you to respond personally to questions which I put or any rhetorical observations which I may make to you in the next few minutes.

What I would like to say, however, to you is this, and at this time I would like you to indicate by raising your hands so that Counselors will know and so I will know, how many of you have had prior jury service in this building? I see only one arm raised. Thank you, sir.

Now, ladies and gentlemen, in an effort to draw this matter to your immediate attention, the Court is going to read to you the indictment which has been returned in this case.

At the very outset you are to understand that an indictment never achieves the stature or character of evidence, and at no time throughout the course of this entire proceeding will you so regard the indictment, however often or frequently you may have heard it referred to.

An indictment is not evidence. It never achieves the stature or character of evidence. You will take your evidence in this case only and solely from this witness stand, as people under oath take the stand and are sworn; the second source, through exhibits that may be offered and received in evidence, and any stipulations which may be agreed upon in open court in your presence, if you become members of this jury.

So you will have these things in mind with respect to where you will get the evidence. You will get the evidence only from those sources, and principally from the witness stand.

The reading of the indictment which I am now to undertake is not evidence, and will not and does not constitute any evidence of the guilt of the defendant.

The indictment reads as follows:

"The State of Ohio, Cuyahoga County. Of the term of April, in the year of our Lord one thousand nine hundred fifty-four, the jurors of the Grand Jury of the State of Ohio, within and for the body of the county aforesaid, on their oaths, in the name and by the authority of the State of Ohio, do find and present that Sam H. Sheppard on or about the 4th day of July, 1954, at the county aforesaid, unlawfully, purposely, and maliciously killed Marilyn Sheppard, contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Ohio."

Signed, Frank T. Cullitan, Prosecuting Attorney.

Now, ladies and gentlemen, on my right and at the counsel table in the second chair sits

the Prosecuting Attorney of this county, and he is John T. Corrigan. Mr. Corrigan, will you please rise.

MR. CORRIGAN: (rising) Good morning.

THE COURT: You have just heard the indictment read, and the name read was Frank T. Cullitan. Mr. Cullitan was Prosecuting Attorney at the time that this indictment was rendered by the Grand Jury.

Since that time Mr. Corrigan has succeeded him and has been elected to the office of Prosecuting Attorney. So Mr. Corrigan is the Prosecuting Attorney for the State of Ohio in this case, together with Leo M. Spellacy, who sits in front of him.

Mr. Spellacy, will you rise, please?

MR. SPELLACY: (rising) Good morning.

THE COURT: Behind Mr. Corrigan sits Sergeant Harold Lockwood of the Cleveland Police Department.

On my left at the counsel table is a member of the bar, F. Lee Bailey, admitted to Ohio for purposes of this lawsuit, Mr. F. Lee Bailey from the Massachusetts bar.

Behind him sits Mr. Russell Sherman, a member of the Ohio bar, co-counsel for the

defendant. And behind Mr. Sherman sits the defendant Sam H. Sheppard.

Now, ladies and gentlemen of the prospective jury, you have been advised and instructed that the reading of the indictment does not constitute evidence in this lawsuit.

Ladies and gentlemen, while we are here we are here for a search for the truth, and that is what we embark upon this morning, a search for the truth as nearly as truth in human affairs can be ascertained.

The lawyers will put questions to you. Perhaps from time to time the Court will put questions to you. This part of the lawsuit, ladies and gentlemen, is known as the voir dire, or the inquiring into.

Now, the voir dire is important in a lawsuit because it gives the lawyers and the Court the opportunity to determine whether or not you can sit fairly, dispassionately, and objectively as a juror in this particular case.

Whether you can sit fairly, objectively and dispassionately in another case is not our concern. Our concern this morning is whether or not you could sit fairly, impartially, and objectively



as a juror in this cause.

The law provides and imposes a responsibility upon the lawyers and the Court to ask questions of you. The lawyers are not doing this because they want to pry into your personal affairs, or they are interested in looking into your family backgrounds or your work backgrounds or any other thing.

They are interested because the law imposes the duty upon them to ask these questions, and to find out about your objectivity and your fairness in this particular case.

Bear in mind that the questions that will be put to you by counsel and Court have been asked by hundreds of thousands of prospective jurors who have come through these courtrooms and this building over the years. So have this in mind when the lawyers put the questions to you.

I instruct you that you answer the questions forthrightly and accurately. You need not volunteer any information. The lawyers if they feel another question is desirable or necessary, will put the question to you. Answer the questions as put to you forthrightly and accurately.

Some of the questions will be put to

you again individually. Some of them will be put to you in a group. If the lawyers put them to you in a group, but in this particular proceeding almost all of the questions will be put to you on an individual basis.

Now, ladies and gentlemen, for purposes then of commencing the voir dire, the Court is going to ask each of you to rise and raise your right arm. (Thereupon the panel of prospective jurors was duly sworn by the Court.)

Ladies and gentlemen, just a few brief observations about what the function of a jury is. Ladies and gentlemen, the jury really serves two important functions in a case of this type, or really in any case under our American system of jurisprudence.

The function of a jury first is to determine disputed questions of fact. Obviously there is a dispute or we would not be in this courtroom this morning.

So, then, the first function, ladies and gentlemen, of any jury under our American system of jurisprudence is to determine disputed questions of fact. That is number one.

Number two, and equally as important a function is that a jury determines the credibility or the believability of witnesses as they take the witness stand.

You will find later on, and you are hereby instructed, but you will be instructed in more detail, that you can believe all of what a particular witness says, that you may believe none of what a particular witness says, or that you may believe some of what a particular witness says.

The judge presides over the case attempting an orderly procedure as envisioned by the Ohio statutes governing our trials in this case. He is the sole determiner of the law.

This duty is imposed upon him by the law, to determine the law, as you ladies and gentlemen are the sole judges of the facts.

The Court would not dare to impinge upon your duty and responsibility to find the facts. You will not impinge or intrude upon the province of the Court to be the sole determiner of the law.

You and you alone will determine the facts in this case. The judge, the lawyers, the witnesses, nor anyone else will determine the facts, what the facts are, except you and you alone, if



you are impaneled and sworn as a jury in this case.

You will find further that if you are sworn as a member of this jury, that you will have the duty to follow the law, and you will have the duty to accept the law as the Court gives you the law, whether you like or dislike the law, whether the judge likes or dislikes the law.

It is our duty and our responsibility to follow the law, and you will follow this law without any bias or prejudice or any sympathy for and on behalf of the State of Ohio, the defendant, or the alleged victim in this case.

You will find the facts as you and you alone determine them to be from the evidence that comes into this courtroom, and from no other source. Do each of you understand that? And I take it by the nodding of your heads that you do understand that.

Now, under our system of jurisprudence in this country, a defendant when he comes into a courtroom is presumed to be innocent, and that is the case this morning.

We are sitting in the criminal branch of our court. The defendant sits before you presumed

to be innocent. He does not have to prove anything.

It is incumbent upon the State of Ohio, and the State of Ohio has the duty to prove each and every essential allegation and averment of this indictment to you beyond a reasonable doubt.

At the proper time in this proceeding the Court will explain to you the definition and the meaning of reasonable doubt, so you will not have to speculate about that term.

The Court will tell you what the presumption of innocence means, so you will not have to speculate about that term.

The Court will define to you the elements of the alleged crime here, so you will not have to speculate about what the elements are.

When the appropriate and proper time comes, these things will be explained to you. Suffice it to say at this point in the proceeding the defendant is presumed to be innocent. He need not prove that innocence. He is presumed to be innocent. It is incumbent upon the State of Ohio to prove his guilt to you beyond a reasonable doubt.

Now, ladies and gentlemen, you have

already met the participants at the trial table, and I don't believe I have overlooked anyone. If I have, I will make that introduction now. I believe I introduced them all to you.

Now, ladies and gentlemen, in this particular case it may be that you will not serve as a juror. You have now been summoned as a juror. But you may be excused from jury service in this case for some reason or another.

If you are excused as a juror in this cause, you are hereby instructed and you will bear this instruction carefully and specifically in mind, and if there is any misunderstanding on your part, or if it needs any clarification, come to me during recess following your excusal, or at an adjournment, and I will explain it to you in detail.

Now, suffice it to say at this time, that if you are excused as a juror in this cause, that is, if you do not sit as a member of this jury, if we impanel a jury in this case, I say to you and I instruct you that as a matter of law you will not discuss this case with anyone until such time as a verdict is returned in open court in this room.

Do each of you understand that?

If you are excused as a juror in this cause, you will not discuss this case with anyone, or what little you know of it, because at this point and by the time, or, at the time you would be excused as a juror you would not have heard any evidence in this case, so you would not have any evidence to discuss, and we are only concerned with the evidence in this case, and you will not discuss this case with anyone until such time as you hear that a verdict has been returned in this case in open court. Do each of you understand that?

Now, by way of example, the persons most likely to ask you what you did at the courthouse, or what you heard in this room, are most likely to be someone at home, someone who is interested in what you may have heard in connection with this case, or what you have been doing all day, and obviously you would indicate that you spent part of your time in Courtroom Number 2.

You are instructed that you shall not discuss what you have heard even with a member of your family, until such time as a verdict in this case has been returned in open court. Do each of you understand that?

For you people, if we impanel a jury in

this case, you people who will be sworn and impaneled will be further instructed with respect to what your duties are.

I am talking now primarily to those of you who have been summoned but who will not serve as jurors in this case.

May I see Counselors at the side of the bench, please?

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

Ladies and gentlemen of the prospective panel, Mr. Patrick will escort from the courtroom all jurors except Mr. Alan E. Severs. You will remain in your seat, and Mr. Patrick will escort all the other jurors from the room; prospective members of the jury.

Mr. Severs, would you be good enough, sir, to take the witness stand and you are mindful of the fact, sir, that you are under oath?

MR. ALAN E. SEVERS: Yes, sir.

THE COURT: Thank you, sir.

For purposes of voir dire for and on behalf of the State of Ohio, the Court will call Prosecuting Attorney Corrigan or Spellacy.

MR. CORRIGAN: May it please



the Court.

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THEREUPON, ALAN E. SEVERS, a member of the prospective jury panel, having been previously sworn, was examined on voir dire, as follows:

VOIR DIRE EXAMINATION OF ALAN E. SEVERS

By Mr. Corrigan:

Q Mr. Severs, will you keep your voice up so that everybody in the courtroom can hear you, and then certainly Counsel at the table will have no difficulty in hearing you.

A Yes, sir.

Q Your name is spelled S-e-v-e-r-s, is that correct?

A Yes, sir.

Q You live at 2592 Mayfield Road, Cleveland Heights?

A Yes, sir.

Q Respond to my questions with a verbal response rather than a nod.

How long have you lived at that address, sir?

A At the present address about four years.

Q Where did you live prior to living at this address on Mayfield Road?

A In East Cleveland.

Q And what was your address in East Cleveland?

A 1762 Wymore.