

MR. GARMONE: That is all.

MR. DANACEAU: That is all.

(Witness excused.)

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MR. MAHON: The State rests,
your Honor.

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THEREUPON THE STATE OF OHIO RESTED.

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THE COURT: Ladies and gentlemen
of the jury, --

MR. DANACEAU: Just a moment. The
defense should also rest, if they rest at this
time.

MR. GARMONE: Yes. Let the record
show that we again rest.

THE COURT: The resting by the
State is also subject to the checking of the
exhibits, of course.

MR. GARMONE: That is correct.

MR. DANACEAU: Both sides have
rested.

MR. GARMONE: That's right.

THE COURT: Before we finally submit them to the jury in their jury room, they will be checked by both sides, and if we have overlooked anything we will correct it.

MR. GARMONE: All right, sir.

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THEREUPON THE STATE OF OHIO RESTED.

THEREUPON THE DEFENDANT RESTED.

TESTIMONY CLOSED.

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THE COURT: Now, shall we let the jury be excused for a few minutes, and we will decide how we will proceed?

MR. GARMONE: I think so.

MR. DANACEAU: Yes.

THE COURT: Ladies and gentlemen of the jury, this concludes the testimony in this case.

Now, we would like to discuss among ourselves just how we shall proceed to close this chapter. You are not interested in those details at the moment. You will be excused. Return to your

jury room and remain there until we call you.

In the meantime, please do not discuss this case.

MR. DANACEAU: Shall we check the exhibits?

THE COURT: May we agree that the exhibits be checked as a finality when we are all through?

MR. GARMONE: We are agreeable to that.

MR. PARRINO: Yes.

MR. DANACEAU: Only those that have been received may be used. If they are not received, they shouldn't be used.

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

MR. PETERSILGE: At this time, your Honor, the defense wants to renew its motions, and those motions are three in number.

The first motion is to dismiss the indictment or, in the alternative, to direct the jury to bring in a verdict of not guilty, and that relates to the entire indictment.

The second motion relates only to the count of first degree murder. As to that, the defense

moves that the Court enter judgment for the defendant on that count or, in the alternative, to instruct the jury to bring in a verdict of not guilty.

The third motion relates to the included counts, namely, second degree murder, first and second degree manslaughter, assault and battery, and simple assault.

As to those counts, and each of them, the defense moves that the Court enter a judgment of not guilty for the defendant or, in the alternative, that the Court instruct the jury to bring in a verdict of not guilty.

We also renew the motions previously made from time to time for continuance of the case; for a change of venue; and for withdrawal of a juror.

THE COURT: Overruled.

Exceptions may be noted.

MR. PETERSILGE: Exception.

THE COURT: Now, the matter of time. The Court will state his view now at the moment without it being final on any one. The Court has a feeling he would like to charge this

jury first thing in the morning.

MR. CORRIGAN: Tomorrow morning?

THE COURT: No, not necessarily.

Could we now agree on a schedule that would give you the time you need to present your views to the jury, and still leave the Court ready to charge at 9:15 on Friday morning?

MR. CORRIGAN: I think that that probably could be arranged. That gives us all day and all -- what is the day?

THE COURT: Then we will divide the time equally that you are to take, and we will finish tomorrow at 4:30.

MR. CORRIGAN: It gives us all day today and all day tomorrow for argument, and I think that is sufficient.

THE COURT: Yes, all right.

Would both sides like to have, say, from now until noon to get your thoughts together, and then we will start at 1:15 sharp, and then we will have a whole day and a half for argument?

MR. CORRIGAN: We are ready to proceed.

THE COURT: I know, but the State has to proceed first.

If the State is ready to proceed, the Court is perfectly willing.

MR. DANACEAU: Is it agreeable, then, -- let's figure out what the time is, and then each side should understand how many hours they have so that there will be no dispute about it.

THE COURT: Now, the immediate question is: Is the State prepared and ready to start on its argument now? If you would want an hour, we will grant it, but if the State is ready, the Court is perfectly willing.

MR. DANACEAU: Let's figure this out. There is this afternoon from 1:15 to --

THE COURT: This afternoon would be from 1:15 to 4:30, that would be exactly three hours and 15 minutes, and we will take 15 minutes for recess. That would be three hours that we would use today. Tomorrow morning we would have 9:15 to 12:15, less 15 minutes, that would be another two hours and a half.

MR. DANACEAU: Two and a half in the morning.

THE COURT: And then three in the afternoon. That would be eight and a half hours. That would be four hours and 15 minutes per side.

MR. CORRIGAN: We would like five hours, your Honor.

MR. DANACEAU: Well, that would be impossible.

MR. CORRIGAN: It isn't impossible if you start now.

THE COURT: No, it wouldn't. We can go to 5:30 tomorrow night.

MR. CORRIGAN: I say it wouldn't be impossible if we start now. It is 25 minutes past 10.

THE COURT: We haven't got the answer to that question.

Is the State ready to proceed?

MR. MAHON: Well, we are just trying to figure the time here.

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MR. PETERSILGE: Maybe we could start at nine o'clock tomorrow morning instead of 9:15 and get a little earlier start.

THE COURT: That is all right with me. That would only give us 15 minutes.

MR. PETERSILGE: Or 8:30, as far as I am concerned. I think the morning is a little better. People are a little fresher than in the afternoon.

THE COURT: Time is a terrific thing, it doesn't stop for anybody. Time goes on.

May I make one suggestion? If you gentlemen would like to have half an hour, that would bring us to eleven o'clock and you would have an hour before noon. Would that help any?

MR. CORRIGAN: Well, they ought to be prepared on their argument to go ahead now.

THE COURT: I'm not sure, Mr. Corrigan.

MR. CORRIGAN: I have to be.

THE COURT: Oh, but you have got time. You will be waiting there.

MR. CORRIGAN: They have had time since the 4th of July to prepare their argument.

MR. MAHON: We can start right now, your Honor.

THE COURT: All right.

MR. MAHON: If we can have just a five-minute recess.

THE COURT: That will give us an hour and a half this morning. Won't that give you exactly five hours apiece?

MR. MAHON: I don't know. I didn't figure it out, Judge.

MR. PETERSILGE: He said he would start after a five-minute recess.

THE COURT: All right.

(Recess taken.)

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