



5-21-1964

## Statement of Fred W. Garmone

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1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF OHIO

3 EASTERN DIVISION

FILED

4 - - - JUN 3 1964

5 Samuel H. Sheppard, )

6 Petitioner, )

7 vs. )

8 E. L. Maxwell, Warden, )

9 Respondent. )

JOHN D. LYTER, Clerk

Civil No. 6640.

10 - - -

11 STATEMENT OF FRED W. GARMONE, GIVEN AT HIS  
12 OFFICE, 255 LEADER BUILDING, CLEVELAND, OHIO, ON  
13 THURSDAY, THE 21ST DAY OF MAY, 1964, AT 10:25 A.M.

14 - - -

15 PRESENT:

16 Mr. Russell Sherman,

17 Mr. David Kessler,

18 Mr. John Cianflona,

19 Mrs. Gertrude Mahon,

20 Mr. Edward T. Murray,

21 Mr. Fred W. Garmone, and

22 Hoyte M. Flowers, Court Reporter.  
23  
24  
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STATEMENT OF FRED W. GARMONE

1  
2 MR. GARMONE: My name is Fred W.  
3 Garmone. I am an attorney-at-law, City of Cleveland,  
4 County of Cuyahoga, Ohio.

5 I office at 255 Leader Building.

6 A short period before the beginning of the  
7 trial a conference was held in the Honorable Judge  
8 Blythin's room.

9 Present at the conference was Judge Blythin,  
10 Mr. Corrigan, Mr. Petersilge and myself, and I can't  
11 recollect, Gertrude, whether there was any member of  
12 the Prosecutor's Office there, but I would have to  
13 say if I was guessing, that no conferences were held  
14 unless there was a member of the Prosecutor's Office  
15 there.

16 At the outset of the conference the statement  
17 was made for the purpose of the meeting. I then stated  
18 to Judge Blythin, because of the fact that his son --  
19 I can't think of his first name, either -- his name is  
20 Ed, isn't it? Blythin, the Detective, is his name Ed?

21 MRS. MAHON: Gee, I don't know.

22 MR. GARMONE: Well, his son at the  
23 time was a member of the Homicide Unit, and I said to  
24 Judge Blythin that in view of that fact, and that his  
25 boy having been actively engaged in the investigation

1 of this death of Marilyn Sheppard, that it was my  
2 feeling that he should withdraw or disqualify himself  
3 as the judge to hear the case.

4 After some discussion, Judge Blythin stated  
5 that he had no objection if that was the consensus of  
6 opinion, and made mention of one or two other judges  
7 that were then sitting in Criminal Court, one of which  
8 was Parker Fulton, who was in the courtroom right  
9 across the hall from Court Room No. 1, Judge Blythin's  
10 court room.

11 The conference continued, and much discussion  
12 took place that was participated in primarily by Mr.  
13 Petersilge and Mr. Corrigan. After I had completed  
14 my statement, Judge Blythin reiterated again that he  
15 had no objection if that was the consensus of all  
16 defense lawyers that he disqualify himself.

17 Prior to that later statement he made  
18 himself very clear as to what his position was, and  
19 that he could sit and hear this case without having  
20 any prejudices or considering the fact that his boy  
21 actively engaged in the effort to bring about a solution  
22 of the death of Marilyn Sheppard. In conclusion,  
23 though, I was overruled by my two associate counsel,  
24 Mr. Corrigan and Mr. Petersilge, and they decided that  
25 they thought that the trial should go forward in the

1 room where it was originally designated to be held.

2 MR. CIANFLONA: Fred, who was the member  
3 of the Prosecutor's Office present?

4 MR. GARMONE: If you recall, I said  
5 I didn't remember that there was a member there, but  
6 I would have to, if I was guessing, that in any  
7 conferences that were had relative to the Sheppard  
8 case, there was always a member of the Prosecutor's  
9 Office present.

10 If I recall right, I think that John partici-  
11 pated in all conferences because of the fact that he was  
12 Chief Counsel at the time. And if I would have to  
13 guess, I would say that John was present, because in  
14 other conferences John and only John was present.

15 When I talk about John, I talk about John  
16 Mahon, who is Gertrude's deceased husband.

17 MR. CIANFLONA: Was there any other  
18 statements made by Judge Blythin other than his consent  
19 to withdraw if it was agreeable by all?

20 MR. GARMONE: Well, I didn't put it  
21 in the exact language of consent. I expressed his  
22 language that expressed willingness.

23 MR. SHERMAN: Did he express, then,  
24 that he could sit, that he did not have a prejudice?

25 MR. GARMONE: No question about that,

1 because if he would have expressed otherwise, certainly  
2 I would have pursued my point, regardless of what Mr.  
3 Corrigan and Mr. Petersilge were doing. And I don't  
4 suppose they would have permitted the matter to remain  
5 in that room if they didn't feel satisfied.

6 MRS. MAHON: No affidavit of prejudice  
7 against Blythin was ever filed before the trial, was  
8 there?

9 MR. GARMONE: Oh, no. There was a  
10 lot of affidavits filed, but --

11 MR. CIANFLONA: In view of your statement  
12 that your associate counsel overruled you, are you in  
13 position now to make any statement as to whether or not  
14 there was any dissention by the three defense counsel,  
15 or discord?

16 MR. GARMONE: I don't think the question  
17 is a fair question, and I don't know how you, as a  
18 lawyer, could formulate such a thought in your mind.

19 This is my feeling on the matter, and I don't  
20 care to pursue the subject any further.

21 I can answer it very simply, that I don't  
22 think you, as a lawyer, should even entertain a thought  
23 like that.

24 MR. CIANFLONA: The only reason I  
25 really entertained it, Fred, was because of the fact

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that you said they overruled you, and I got the impression --

MR. GARMONE: Well, I was only --  
I was -- what was I? The third last counsel?  
Petersilge was originally the lawyer for the family;  
Corrigan then became Chief Counsel, and not being in  
Corrigan's office at the time, I was hired by Mr.  
Corrigan, and that puts me third in standing. First  
division, however.

Anything else you would like to know?

MR. CIANFLONA: I have nothing else.

MR. GARMONE: Gertrude?

MRS. MAHON: No.

MR. GARMONE: Dave?

MR. KESSLER: No.

MR. RUSSELL: O. K., I think that is  
fine.

MR. GARMONE: Does that satisfy your  
desire?

MR. RUSSELL: Yes. Thank you very much.

MR. GARMONE: Thank you.

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