



1-29-1964

Pre-Trial Order No. 3

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FILED
JOHN D. LYTER, CLERK

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE SOUTHERN DISTRICT OF OHIO,
EASTERN DIVISION

JAN 29 1 50 PM '64
U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

SAMUEL H. SHEPPARD, :
 :
Petitioner :
 :
-vs- : PRE-TRIAL ORDER NO. 3
 :
E. L. MAXWELL, Warden, :
Ohio Penitentiary, : Civil No. 6640
 :
Respondent. :
 :

Pursuant to the provisions of numbered paragraph 3 of Pre-Trial Order No. 1 in the above-entitled action, set forth below is a stipulation of all issues to be considered by the court in this case; said stipulation is agreed to by counsel for the petitioner and the respondent.

STIPULATION OF ISSUES

In the petition for a writ of habeas corpus, coupled with the allegations of the answer, the following issues are presented to this Court (issues of fact are not set forth, but only those issues of law which would arise if the allegations of the petition are established):

1. Was the arraignment of petitioner on a capital charge in the absence of his counsel, whose presence petitioner requested which request was refused, a violation of his constitutional rights?
2. Was the ejection of petitioner's counsel from the Cuyahoga County jail on August 1, 1954, thus depriving petitioner of counsel's advice, a violation of his constitutional rights?
3. Did the refusal of the trial judge to grant motions for a continuance and/or a change of venue, in the face of massive prejudicial publicity, violate petitioner's constitutional rights?
4. Was the publication of a list of veniremen thirty days in advance of trial, thus subjecting said veniremen to opinions of others during the thirty-day period, a violation of petitioner's constitutional rights?
5. Did the trial judge, by failing to sequester the jurors during the trial in the face of continuing prejudicial publicity, violate petitioner's constitutional rights?
6. Did the trial judge fail to adequately investigate the prejudicial effect of news stories during trial by questioning the jurors at the request of defense counsel?

7. Was the action of the trial judge in setting aside the major portion of the courtroom for representatives of news media violative of petitioner's constitutional rights?

8. Did the conduct of the Cleveland Press in reporting and editorializing the Sheppard Case pressure public officials to act against petitioner's interests, beyond the bounds of fairness, to an extent that violated petitioner's constitutional rights?

9. Did the ruling of the trial judge, denying petitioner his last peremptory challenge, violate petitioner's constitutional rights?

10. Did the action of the bailiffs in permitting the jurors, during deliberations and without authority from the court, to hold telephone conversations with persons outside the jury room, violate petitioner's constitutional rights?

11. Did the action of the police in seizing and holding petitioner's house, and excluding petitioner and his representatives from it for the duration of the trial, with the concurrence of the trial court, violate petitioner's constitutional rights?

12. Was the refusal of the trial judge, as affirmed by the Court of Appeals of Cuyahoga County, to grant petitioner a new trial upon after-discovered evidence tending to show a third person in the murder room in corroboration of petitioner's defense, a violation of petitioner's constitutional rights?

13. Did prosecuting authorities suppress relevant, substantial and material evidence in such a manner as to violate petitioner's constitutional rights?

14. Did prosecuting authorities use improper and unfair tactics prior to and during trial in such a manner as to violate petitioner's constitutional rights?

15. Did the trial judge, in permitting police officers to testify that petitioner had refused a lie-detector test, violate petitioner's constitutional rights?

16. Did the trial judge, in permitting a witness named Houk to testify that he had taken a lie detector test, violate petitioner's constitutional rights?

17. Did the Chief Justice of the Supreme Court of Ohio, in appointing his own replacement in violation of the Ohio Constitution to sit on petitioner's appeal, violate petitioner's constitutional rights?

18. Did the action of the trial judge, in determining the unbiased condition of the jurors on their own assertions of fairness and impartiality, violate petitioner's constitutional rights?

19. Did the Supreme Court of Ohio, in determining that there had been sufficient evidence to sustain the conviction, violate petitioner's constitutional rights?

20. Did the Supreme Court of Ohio, in failing to pass upon all of the errors assigned by petitioner in his appeal, as required by Ohio Statutes, violate petitioner's constitutional rights?

21. Were the courts of Ohio generally, in the handling of petitioner's trial and his several appeals, so prejudiced

against him as to deprive him of his constitutional rights?

22. Did the trial judge, in forcing the jury to deliberate for more than four days until it had reached a verdict, violate petitioner's constitutional rights?

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