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62/08/01 Letter from F. Lee Bailey to Russ Sherman

F. Lee Bailey

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LAW OFFICES
F. LEE BAILEY
FORTY COURT STREET
BOSTON 8

CHARLES E. ORCUTT, JR.
ASSOCIATE

August 1, 1962

LA 3-4975
CA 7-6132

Mr. Russell A. Sherman
Attorney-at-Law
203 Lorain County Bank Building
Elyria, Ohio

Dear Mr. Sherman:

I am writing as a result of our telephone conversation relating to the case of Dr. Samuel H. Sheppard. As I therein indicated, I am interested in associate counsel in Ohio who can meet certain qualifications, and you were recommended to me by Mr. Orcutt as a most responsible and ethical individual.

I hope that perhaps you have by this time had an opportunity to read "The Sheppard Murder Case," by Paul Holmes. If so, I assume that I need to say very little about the justice of Dr. Sheppard's conviction, except that the picture presented by the book has been described to me by jurors who participated in the trial as factual and fair in every material respect. In other words, nothing has been omitted which might explain why this hapless individual is serving a life sentence for a crime it would have been almost impossible for him to commit.

There are numerous documents in the records of the case which paint much more graphically than did Mr. Holmes the extent to which the press whipped up a frenzy in this case. One paper in particular - The Cleveland Press - wrote daily editorials denouncing Sam Sheppard as a murderer for some 20-odd days before he was even under arrest. As a result, the Press and its Editor-in-Chief who personally authored these auspicious pieces of twisted journalism were in extremely tenuous circumstances until such time as their libelous activity was sanctioned by the verdict of the jury. Should this conviction ever be reversed, The Cleveland Press and Editor Louis B. Seltzer will be looking up the wrong end of a rather staggering ad damnum, and they know it. To date Mr. Seltzer has successfully blocked every effort to vindicate Dr. Sam. That he is trying feverishly to tamper with the present effort I do not for a moment doubt; his in-

ability to pose effective resistance thus far is due in large measure to the fact that I dwell beyond his bailiwick, and don't give a damn to boot. He is well aware, I'm sure, that I cannot act in the State of Ohio without local counsel, and that any pressure he can effectively assert must be directed at an Ohio lawyer. I am sad to say that he brought such pressure to bear on defense counsel even while the trial was in progress. To what extent it spurred this conviction is impossible to say, but it could hardly have helped. When I brought the petitions now pending before the Supreme Court, I engaged a well-known and thoroughly experienced attorney in Columbus, who handled the original appeal of this matter. As luck would have it, he decided to run for a Supreme Court berth, and informed me that he could not afford to file an appearance in this case because it is "too controversial." Translated, this simply means that Seltzer was ready to turn his Press upon a political aspirant, which equates to sudden death.

Dr. Steve Sheppard (Sam's brother, and the strongest figure in the case by far) and I then were forced to select, on the spur of the moment, an attorney who had expressed an interest in participating. His professional reputation and practice in Cleveland, even though he had been active for several years, were not such that he ought to have been vulnerable. For a period of time he was reasonably helpful, then suddenly lost his head and started filing briefs on the sly. I assume that this was an effort to pre-empt leadership of the defense team, although it was so foolishly done that I am still a little query-prone about the entire transaction. Fortunately, I was able to cancel this little maneuver before its deleterious effect could achieve any permanence. Whereas Mr. Faust is still associate counsel, I hesitate to rely upon him in the future. Needless to say, Sam Sheppard would suffer immeasurably if at the time of oral argument before the Supreme Court his counsel were unable to see eye to eye. Accordingly, I happened to mention to Charlie a day or so ago that I would be much happier if I could have as local counsel a young lawyer with few connections, lots of guts, and the kind of idealism that sponsors integrity as the longest suit. He snapped his fingers, mentioned your name, and hence our call.

It is manifest that the Sheppard case is notorious, and that lawyers who are instrumental in making it click will not suffer by the publicity attendant upon such an achievement. Beyond that, you will find that if you get mixed up in this thing you will tend to develop a strong personal feeling about the sickening failure of the law to maintain the unbending strength we were told about

in school. As to the Sheppard case, the state has been a government of men and not of laws. The reward in smashing to a smidgeon those responsible for this mess is something which can only be calculated in terms of the individual; to me it will be adequate, even if I never receive a cent in compensation.

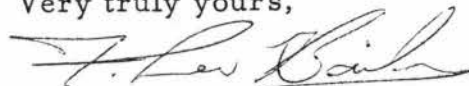
The question of fees has been batted around considerably since I entered this case; Dr. Steve Sheppard has indicated a willingness to bear the cost, as he has so often in the past. Dr. Sam has earnestly requested that his brother not be so burdened. After long consideration I have decided that this request should be honored, partly because Dr. Steve has paid heavily already, partly because I can afford to wait and take a chance that in the sometime future there will be a substantial sum of money, and partly because Dr. Sam is due the self-respect which he has for 8 years been able to maintain despite the humiliation and degradation to which he has been subjected. Although to a young lawyer like yourself the prospect of unpaid representation is less than invigorating, in this particular case it is worth it - to me at least. As a practical matter, it is improbable that you will suffer financial loss.

I would like you to give this matter your most serious and deep consideration. It is an opportunity for which many would give at least one arm, maybe two. It will be a lot of hard work, and we may skin our knees many times before Dr. Sam sees the outside of the prison walls. You will have to accept the fact that if L. B. Seltzer can knife you, he may well do so. My feeling is that you are not vulnerable because of your comparatively recent admission to practice. You will have to make up your mind that Sam Sheppard is a guy who has gotten the wrong end of the longest shaft in history, and that you are going to give all that you have as a lawyer to see that said shaft is removed, and inserted in the proper orifice. If you are able to accord your thinking with these views, please so indicate by letter and I will recommend to Dr. Steve that your appearance be filed.

As you can see, I have spoken with utter candor in laying this case before you in order that you might reach an honest and sincere decision. Whatever that decision may be, I ask that you treat the facts set forth herein with the utmost confidence.

Very truly yours,

FLB:cg



P.S. Copies of all correspondence & pleadings enclosed for your inspection.