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## 55/05/04 Sam Back in Court on New Trial Plea

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Press 5-4-55

# Sam Back in Court On New Trial Plea

Dr. Samuel H. Sheppard went to court again today—exactly 10 months after the July 4 murder which shattered his career as a successful Bay Village osteopath and made him a convicted wife slayer.

He went before Common Pleas Judge Edward Blythin for the final hearing on his plea for a new trial on the claim of "new evidence" unavailable to the defense during last winter's 10-week trial.

Blythin may rule from the bench or take the matter under advisement after hearing the arguments of Defense Counsel William J. Corrigan and Assistant Prosecutor Saul S. Danaceau.

Both staked their cases on the statements of a blood expert:

**CORRIGAN** held that the opinion of Prof. Paul L. Kirk of the University of California that a blood spot in the murder bedroom was the "signature" of the real killer—and not from the veins of Dr. Sam or his murdered wife, Marilyn—constituted "new evidence."

**DANACEAU** cited the view of Dr. Roger W. Marsters, University Hospitals blood specialist, that Kirk's statement was an "unwarranted . . . presumption," based on dubious laboratory techniques.

Corrigan today presented a new affidavit in which he quoted Kirk as "refuting" Dr. Marsters.

Kirk's statement, dictated by telephone from his home at Berkeley, Calif., made these assertions:

**DR. MARSTERS** was an expert on fresh blood, not dry blood—thus not qualified to dispute Kirk's methods and conclusions.

**"ANY VARIATION"** in reactions of a blood spot are "significant," particularly since there was no evidence of contamination of the "signature" spot.

**A BLOOD SPOT** as large as the "signature" could not have splattered from the murder victim or been from the backthrow of the death weapon, but must have originated with "a third person."

The prosecution also contended that the defense had full access to all available evidence—including the disputed blood spot—before and during the trial.

Blythin, who was the trial judge, must hold that the "new evidence" could not with "reasonable diligence" have been turned up by the defense while the issue was before the jury if he is to order a retrial on that basis.