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## 66/06/06 Supreme Court Sets Aside Sheppard Murder Conviction

Cleveland Press

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# SUPREME COURT SETS ASIDE SHEPPARD MURDER CONVICTION

By ROBERT CRATER, Press Washington Writer

WASHINGTON—The U. S. Supreme Court today set aside the 1954 second-degree murder conviction of Samuel H. Sheppard.

In an eight-to-one opinion—with Justice Hugo Black dissenting—read by Justice Tom C. Clark, the court held that the trial judge, the late Edward Blythin, “did not fulfill his duty to protect Sheppard from inherently prejudicial publicity which saturates the county.”

The court also held that Judge Blythin had failed

“to control disruptive influences in the courtroom.”

“The case is remanded to the Federal District Court with instructions to issue the writ and order that Sheppard be released from custody unless the state puts him to its charges again within a reasonable time,” the majority directed.

In Cleveland, County Prosecutor John T. Corrigan said he was “shocked by the decision and cannot now say whether we will retry Sheppard.”

In his 29-page opinion, Clark said where there is “a reasonable likelihood that prejudicial news prior

to trial will prevent a fair trial, the judge should continue the case until the threat abates, or transfer it to another county not so permeated with publicity.”

Half the opinion was devoted to a description of the Sheppard publicity both before and during the trial. Justice Clark gave many examples of headlines and spoke of a radio debate over station WHK.

While “the principle that justice cannot survive behind walls of silence” is firmly rooted in America, Clark said, the court has pointed out before that “legal trials are not like elections, to be won through

the use of the meeting-hall, the radio and the newspapers.

“The court has insisted that no one be punished for a crime without a charge fairly made and fairly tried in a public tribunal free of prejudice, passion, excitement and tyrannical power.”

Today’s decision reversed the May, 1965, Cincinnati Circuit Court of Appeals ruling ordering Sheppard returned to Ohio Penitentiary to resume serving his life sentence.

The 42-year-old former Bay Village osteopathic

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**SAM SHEPPARD'S** wife, Arianne, and son, Chip, join the former Bay Village osteopath in expressing gratification at the Supreme Court's action in setting aside his 1954 conviction for second-degree murder.

## Sheppard Calm, Composed Over News of Verdict

By **NORMAN MLACHAK**

Composed and displaying no excitement over the U. S. Supreme Court's verdict, Sam Sheppard held a conference with newsmen today on the front lawn of his home at 2752 Wooster Rd., Rocky River.

At his side, and also appearing to take the news in stride, without emotion, were his wife, Ariane, and his son, Sam Sheppard Jr., known as Chip.

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**Text of Supreme Court opinion is on Page C 9.**

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Press and TV photographers had to coax Sheppard to smile and kiss the German-born wife.

"Sure I'm relatively happy," Sheppard said. He said he was informed of the court's decision by his son and through a call from a newspaper.

**THE SHEPPARDS KEPT** the flock of news reporters and photographers waiting outside for a half hour.

"Are you going to turn yourself in?" Sheppard was asked by a wire service representative.

Sheppard displayed mild amusement.

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# Supreme Court Sets Aside Sheppard's Conviction in Wife's Murder

(Continued from Page One)

physician has been free since July 15, 1964, when Federal District Judge Carl A. Weinman released him from prison on a habeas corpus writ.

IN HIS ORDER granting Sheppard's petition for a writ of habeas corpus in July, 1964, Judge Weinman ruled:

"Should not further action be taken by the State of Ohio or the County of Cuyahoga within 60 days after the filing of this decision." Sheppard's release "shall be final and unconditional."

The new period of 60 days began with today's decision.

David L. Kessler, assistant attorney general, said the attorney general's office is now out of the picture. It will be up to Prosecutor Corrigan to take whatever action is indicated by the court's opinion.

F. Lee Bailey, Sheppard's

attorney, was engaged in a trial in a Massachusetts court and could not be reached for comment.

James C. Bird, foreman of the Sheppard jury, was in Cleveland Clinic Hospital where he underwent surgery this morning.

Corrigan said he expected to receive a copy of today's decision tomorrow and will decide "Tuesday or Wednesday" whether to retry Sheppard.

He said the decision would be his alone.

Samuel H. Sheppard's wife, Marilyn Reese Sheppard, 30, was murdered in the bedroom of their Bay Village home in the early morning hours of July 4, 1954.

Sheppard, also 30, was arrested July 30. On Aug. 17, he was indicted by the County Grand Jury on a charge of first-degree murder.

From the very first, he maintained he was innocent of the killing.

HIS TRIAL BEGAN before Judge Edward Blythin on Oct. 18, 1954, and a jury returned a verdict of guilty of second degree murder on Dec. 21.

From the day of the guilty verdict until today it seems there has always been a Sheppard matter before the courts for a ruling.

Sheppard's conviction was affirmed by the Court of

Appeals on July 20, 1955. This decision was upheld by the Ohio Supreme Court on May 31, 1956. On Nov. 14 of that year, the U. S. Supreme Court refused to admit the case for review.

In 1958, Sheppard's attorney began a habeas corpus action in the Ohio Supreme Court that ran through several stages of amendments.

Finally, on May 4, 1960, the state's highest court refused to release Sheppard and denied the habeas corpus application.

In 1962, Gov. Di Salle refused to allow outside specialists to come into the Ohio.

Samuel H. Sheppard will be a completely free man as soon as the official notice of today's Supreme Court decision is received by District Judge Carl A. Weinman, and Judge Weinman signs a new writ of habeas corpus.

Sheppard's present \$10,000 bond will be canceled. All present restrictions on his freedom of movement will be lifted. If the state will not retry him, he will be free to apply for reinstatement as an osteopathic physician.

Penitentiary — where Sheppard was serving a life sentence — to give him a lie detector test, or to question him under hypnosis.

On Dec. 27, 1962, the Ohio Supreme Court refused to order the penitentiary warden to allow either experiment on Sheppard.

The U. S. Supreme Court refused to review this case on May 13, 1963. Prior to that, on Apr. 11 of that year, Sheppard's attorneys filed a petition for a writ of habeas corpus in Federal Court in Columbus.

Federal District Judge Carl A. Weinman granted

Sheppard's petition and Sheppard was released from the penitentiary on July 15, 1964.

HIS RELEASE was appealed to the Sixth Circuit Court of Appeals in Cincinnati. On May 5, 1965, that court, by a two to one vote, reversed Judge Weinman and ordered Sheppard returned to the penitentiary.

The U. S. Supreme Court admitted Sheppard's appeal from this ruling on Nov. 15 last year.

On Feb. 28 this year, the nation's highest court heard oral arguments by Sheppard's

attorney, F. Lee Bailey of Boston, Bernard A. Berkman, representing the Civil Liberties Union, Ohio Attorney General William B. Saxbe and County Prosecutor John T. Corrigan.

In its long history, the conviction of Sheppard has been considered by 30 judges sitting in courts ranging through all state levels and twice before to the U. S. Supreme Court.

Of the 30 judges who have considered the case (some of them more than once), five thought Sheppard should have a new trial and 25 upheld his conviction in Judge Blythin's court. This count does not include today's Supreme Court decision.

Many of the leading figures of the Sheppard case have died since the trial ended in December, 1954.

**SHEPPARD'S MOTHER,** Mrs. Ethel N. Sheppard, committed suicide on Jan. 7, 1955. Sheppard's father, Richard A., died Jan. 18, 1955, after a long illness.

The county prosecutor, at the time of the trial, Frank T. Cullitan, died Jan. 24, 1957, and the trial judge, Edward Blythin, died Feb. 14, 1958.

Attorney William J. Corrigan, Sheppard's chief defense counsel, died July 30, 1961, and John Mahon, a principal lawyer on the prosecutor's trial staff, died Jan. 31, 1962.

Thomas S. Reese, father of Marilyn Sheppard, died Feb. 13, 1963, of self-inflicted shotgun wounds. One-half of his \$100,000 estate went to his grandson, Samuel Reese (Chip) Sheppard, son of Marilyn and Samuel H. Sheppard.

**CHIEF ASSISTANT** County Prosecutor at the trial,

Saul Danaceau, died May 30, 1965. Corrigan's partner on the defense side of the trial table, Fred Garmone, died Feb. 17 this year.

otho Kilgallen, whose 1964 allegation about Judge Blythin's prejudice figured in the newest Sheppard appeal to the Supreme Court, died Nov. 8, 1965.

Newspaper columnist Dor-

## Sheppards Calm Over Verdict

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"For what and to whom?" he asked. "I happen to be on bond."

In reply to a barrage of questions as to whether he wanted to go to trial again or would be content with the setting aside of his conviction, Sheppard said:

"I'm encouraged. I want to be free. I want what is proper for complete vindication. However, I don't wish to put my family through the tremendous ordeal."

"I HAVE NO INCLINATION. This is not in my hands. It's up to the county prosecutor."

Answering similar questions a little later, Sheppard said:

"I alone do want it (to face trial again) as a way of absolutely vindicating myself, but I hesitate to subject my family to it."

Sheppard said he talked to his lawyer's secretary in Boston after learning of the court's verdict and said he would not be apprehensive about a second trial. "I know I could prove my innocence," he said. "I'm ready to go to trial now."

HE BRUSHED ASIDE questions about whether he expected to be re-arrested. "They don't have enough evidence to arrest me, let alone take me to trial."

At the press conference ended, Sheppard was asked his immediate plans. "We're going to see our doctor," he said, smiling. Mrs. Sheppard spoke up: "We're going to run some errands like normal citizens," she said.



**SAM SHEPPARD** and his wife, Ariane, embrace after hearing of Sheppard's Supreme Court victory.