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55/12/13 Highest Ohio Court Gets Sheppard Plea

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MSL

ACADEMIC ENDEAVORS

STATE'S SURPRISE PITS KIRK VS. KIRK

Quotes Expert's Textbook to Refute Testimony

BY SANFORD WATZMAN

In a surprise turnabout late yesterday the state "adopted" Dr. Paul L. Kirk as its own crime expert in an effort to show that Dr. Kirk was wrong in the Sheppard murder investigation.

This new and alleged kinship between the prosecutors and the California criminologist lasted only a few seconds. Dr. Kirk was cited as the authority for the state's contention that his "new evidence" amounted to mere theory and speculation.

Assistant County Prosecutor Saul S. Danaceau read to the Court of Appeals a paragraph on Page 201 of Dr. Kirk's textbook, "Crime Investigation," copyrighted two years ago.

Says Quotation Backs Argument

The quotation, Danaceau said, supported his argument that Dr. Kirk could not have arrived at definite scientific conclusions while testing "dried blood that was seven months old" from the bedroom where Marilyn Sheppard was murdered.

The paragraph read in full:

"It should be noted further that, on standing, the agglutinins are slowly lost in many bloods. For this reason, a test which depends only on a testing for agglutinin is to be trusted completely only when the blood is comparatively fresh, or when the results are checked also by methods testing for the presence of agglutininogen as well."

Keystone of an affidavit submitted by Dr. Kirk in behalf of

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STATE'S SURPRISE ^{9/14/50} PITS KIRK VS. KIRK

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the new-trial demand of Dr. Samuel H. Sheppard was his assertion that a third and unknown person had written his "signature in blood" on a wardrobe door in the bedroom.

Corrigan Brought in Book

Danaceau told reporters he came across the passage while thumbing through the textbook in a recess.

The volume was brought into the courtroom by Chief Defense Counsel William J. Corrigan, who suggested to the three appellate judges that they read it. Corrigan pointed out that the work is used for reference by Cleveland police laboratory men.

Arguments by the lawyers were over a defense "assignment of error" charging that Common Pleas Judge Edward Blythin acted prejudicially to Dr. Sheppard in denying him a new trial on the basis of Dr. Kirk's investigation.

A reviewing court ruling on this and 41 trial errors that the defense alleges were committed is expected to come at the same time, probably next month.

Petersilge Is Star Attacker

Arthur E. Petersilge of the defense staff delivered the main attack on the state's attempts to discount Dr. Kirk's findings.

If, as Danaceau has maintained, the wardrobe blood spot could not be properly analyzed because it might have been contaminated by fingerprint powder and other police chemicals, then why was not a smaller blood spot directly underneath it also contaminated, Petersilge demanded.

Among other challenges flung out by Petersilge and Corrigan in their arguments, and also in a new brief they filed, were these:

DR. ROGER W. MARSTERS of University Hospitals, the state's blood expert, was said to have experience in testing only fresh blood and therefore was not as competent as Dr. Kirk in the dried blood field.

WHILE THE WARDROBE SPOT agglutinated slowly, the blood of a pregnant woman, as Mrs. Sheppard was, agglutinates rapidly.

IN THE BLOOD EVIDENCE at the trial "there was nothing about . . . direction and velocity nor about the significance of the blood pattern" in the bedroom.

IF THE STATE, "with all its experts," the defense charged, failed to exercise diligence in obtaining this evidence, then the defendant cannot be accused of any lack of diligence on his part in gathering evidence for the trial.