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55/07/20 Just a Number Now,Sam Heads for Pen

Cleveland News

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Just a Number Now, Sam Heads for Pen

Denied a new trial for the second time within a week, Dr. Samuel Sheppard was to go to Columbus today to start his life sentence in the Ohio Penitentiary for the murder of his wife Marilyn.

In a unanimous decision the three judges of the Appellate Court turned down Dr. Sam's latest motion for a new trial based principally on "newly discovered evidence" presented by Dr. Paul L. Kirk, criminologist of Berkeley, Cal.

The trip meant that Dr. Sheppard, who has been in County Jail for a year, will begin serving time that will count toward the minimum sentence of 10 years which must be served before he can ask for a parole.

Visited by Brother

Indication that Dr. Sam was ready to make the trip came several hours before the Court of Appeals decision when his brother, Dr. Stephen Sheppard and his wife, Dorothy, visited him and left with two stacks of books the prisoner had been reading.

Dr. Sheppard's attorney, Fred W. Garmone, said no stay of execution would be asked although an appeal of the Court of Appeals decision will be made to the Ohio Supreme Court.

Another Appeal Planned

An appeal also will be filed on the motion for a new trial based on 37 alleged errors. This motion was denied last week by the Court of Appeals.

In the Appellate Court opinion written by Presiding Judge Julius M. Kovachy with Judges Lee E. Skeel and Joy Seth Hurd concurring, Dr. Kirk's affidavit was described as "most extraordinary and unusual" and "sheer supposition."

Judges Reject Plea

"The defendant, in effect, says that his claimed newly discovered evidence was gathered

Sheppard's Court Bill Is \$4,562

Criminal and Appellate Court costs in the Dr. Samuel H. Sheppard murder case totaled \$4,562.43, Chief Deputy Clerk of Courts Emil Masgay said today.

A bill will be sent to William J. Corrigan, chief counsel for the convicted wife slayer. If it is not paid within a reasonable time the clerk will issue a certificate of judgment which will constitute a lien against any future personal or real property Dr. Sam may acquire.

from the bedroom in which the murder was committed and from exhibits which had been admitted in evidence during the trial," the opinion read.

"Defendant-appellant argues that he was prevented from making this investigation and performing these experiments in time for the trial because the state retained possession and control of the premises until Dec. 23, 1954, two days after the rendition of the verdict by the jury.

"There is no evidence that any request to enter the house for the purpose of investigation and inspection was ever made by the defendant nor does the record show any formal application to the court at any time for a like purpose."

Kirk's Time Wasted

Commenting that Dr. Kirk would "have spared himself much effort and time had he been informed by the attorney for the defense of the narrow scope allowed him under the law," the opinion pointed out that the motion for a new trial was not intended as an instrument for reconsidering the evidence.

Dr. Kirk's investigation indicated that the slayer of Marilyn Sheppard was left handed. She was murdered July 4, 1954. The opinion of the court declared that "the wielder of the weapon, being impelled by consuming rage and sudden animosity, had a definite purpose to kill and a person so motivated would strike from any direction necessary to accomplish his purpose."