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Press Special

DR. SAM EXPECTS HUNG JURY, ASKS BAIL UNTIL SECOND TRIAL

Judge Talks to Attorneys on Deadline



JUROR IN SNOWBALL FIGHT might be the title of this picture taken this afternoon outside the Criminal Courts Building. The snowball tosser is Frank G. Moravec. Smiling at his jest are (from left) Mrs. Ann W. Foote, Mrs. Louise Feuchter and William C. Lamb, Jurors No. 7, 5 and 4, respectively. The jurors were on their way back from lunch.

Dr. Samuel H. Sheppard, virtually convinced that his 10-week wife murder trial will end with a "hung jury," late today asked his attorneys to apply for bail "before the second trial."

Only a slender possibility remained that the deadlocked seven-man, five-woman jury might reach agreement on a verdict.

The grim determination with which the serious-faced jurors were tackling their task was shown when, maintaining the secrecy of their deliberations, one of them stepped out of the locked jury room to flush torn up ballots down a toilet.

It was believed that many ballots had been taken—but only the debating dozen knew on what issue, or how the score stood.

Defense sources indicated that Dr. Sam—satisfied in his own mind that the record four-day jury deliberation probably ruled out any possibility of an acquittal—was anxious to press for discharge of the jury.

Judge Edward Blythin held a 4 p. m. conference with Chief Defense Counsel William J. Corrigan and Chief Assistant Prosecutor John J. Mahon.

Purpose of the huddle was to obtain the views of the rival attorneys on whether the judge should ask the jurors to say whether their deadlock is hopeless, or if they believe further deliberation may produce a verdict.

Both sides were in agreement that the jury has had "about enough time."

Court Opens Next Month

Should the trial end with a jury disagreement and dismissal, the retrial would be set for the next court term, which opens Jan. 3.

"I don't want to wait this thing out in jail," Dr. Sam said. "Can't I get out on bail?"

His attorneys assured him that—should a second trial be necessary—they probably would file a bail application on Jan. 3.

Dr. Sam was granted liberty on \$50,000 bail by Judge William K. Thomas last Aug. 16—but was re-arrested the next day when the Grand Jury returned a first degree murder indictment.

Judge Blythin later refused bail pending the present trial.

Under Ohio law, a first degree murder case defendant is entitled to freedom on bail unless the "presumption of guilt is great."

However, Judge Blythin remained "hopeful" that the bail issue might not arise. He said there is still a possibility that the jury may reach unanimity today.

Blythin insisted the record long deliberation was un-

Dr. Sam Asks Bail, Expects Hung Jury

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derstandable in view of the length and complexity of the trial, but he, too, apparently was becoming impatient.

But he indicated he was prepared to ask the panel if they want to give up or continue debating if the deadlock continues much longer.

This will be in the form of a question to the foreman—believed to be James C. Bird:

"Be careful not to tell me HOW you are voting but please indicate whether or not you feel that, with further deliberation, you might be able to reach a verdict."

On the foreman's answer will hinge the judge's future action—

Keep the jurors or dismiss them.

So far, the poker-faced jurors have furnished no clew as to where they stand—or what issues they've discussed.

All their expressions told was the tense and awesome responsibility of deciding whether Dr. Sam is guilty.

Fourth Day of Study

The deadlocked jurors began their fourth day's deliberations behind locked doors at the Criminal Courts Bldg. at 9.10 a. m.

There was a ripple of excitement in the courtroom when the buzzer from the jury room sounded off loud and clearly at 11:38 a. m.—but it turned out to be another false alarm.

Bailiff Eddie Francis, who rushed up to the deliberation room, reported that it was "probably a short circuit—nobody in the jury room touched the button."

Before going to lunch at the Shanghai Restaurant, 2142 Rockwell Ave., the jurors stopped at the court clerk's office to draw their "pay" for the past week—\$30 each.

They seemed to be chatting amiably and good-naturedly, with no cliques or cleavage apparent to outsiders.

Calls With Tip

Even Dr. Sam's most ardent supporters conceded privately that the best the accused osteopath can hope for is a "hung jury"—which would bring him to trial again some time next year.

While the jury debated his doom or deliverance, Dr. Sam sprawled on the bed in his fourth-floor cell, either dozing

Today's first mail delivery brought 50 Christmas cards to Dr. Samuel H. Sheppard's cell in the County Jail.

He also was permitted to receive five visitors—his two brothers and sisters-in-law and Guilford R. Brown, his murdered wife's uncle.

or leafing through religious literature and Christmas cards.

His brothers paced the second-floor corridors.

Dr. Richard N. Sheppard's wait was interrupted by a telephone call from a man in Akron, which reached him on the judge's phone. The caller wanted to report that a fellow worker of his was "the real killer" of Marilyn Sheppard.

But he told Dr. Richard that he had already given his information to the police—and the older brother hung up.

Courthouse nerves were frayed by the long wait for the jurors to rule whether Dr. Sam killed his wife, Marilyn, on the morning of July 4.

Defendant Calm

The calmest persons present seemed to be Judge Blythin and the youthful defendant.

"After all," Blythin said, "this trial has been going on a long time. The jurors have heard seven weeks of testimony. It takes time to evaluate it and deliberate. It always takes time for 12 people to reach an agreement."

Dr. Sam, during his courtroom appearances when the jury was dismissed for lunch, dinner and the evening, gave no outward sign of the strain of waiting.

The defendant clutched a crucifix as he scrutinized the faces of the jurors.

Blythin set a Criminal Courts Bldg. precedent when he kept the jurors deliberating Sunday. When they were brought into the courtroom at 6 o'clock last night, Blythin told them:

"It's Sunday evening. The weather is not perfect. I suggest that you have dinner together, take the rest of the evening off and return at 9:15 a. m. . . ."