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55/04/27 New Clew Claimed by Sam

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NewClew

Claimed

by Sam

Prof. Kirk Presents

Affidavits to Court;

Hearing Adjourned

**By SAM GIAIMO and
AL OSTROW**

The "real killer" of Marilyn Reese Sheppard left his "signature in blood" in her murder bedroom.

Dr. Samuel H. Sheppard, under sentence to life imprisonment for his wife's July 4 murder, today offered this claim as "new evidence" in support of his plea for a new trial.

The "signature" was identified as a blob of blood on a closet door in the murder bedroom. It does not match the blood of Dr. Sam or Marilyn, the defense claimed.

Dr. Sam nodded approvingly as an affidavit setting forth this theory, prepared by his new scientific champion, Prof. Paul L. Kirk of the University of California, was presented to Common Pleas Judge Edward Blythin.

Resumes Wednesday

Blythin adjourned the hearing until next Wednesday, May 4—exactly 10 months after the murder—to permit Assistant Prosecutors Saul S. Danaceau and Thomas Parrino to study the 46-page document and 46 accompanying photos and diagrams to decide whether to:

ARGUE AGAINST a new trial for Dr. Sam on the contention that Kirk's version of the suburban slaying is not "new evidence," or

PRESENT REBUTTAL affidavits by state experts to dispute Kirk's findings.

Kirk's written conclusions were presented to the court by Chief Defense Counsel William J. Corrigan as the climax of a 25-minute hearing.

The scene was the waiting room in which the 75 talesmen from whom the panel which tried and convicted Dr. Sam last winter spent the restless two weeks of jury selection.

Among the spectators in the packed room were Dr. Sam's

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Dr. Sheppard Claims He Has New Evidence Clearing Him of Wife's Murder

(Continued From Page One)

two older brothers, Dr. Stephen and Dr. Richard Sheppard, and their wives; Thomas Reese, father of the murdered Marilyn, and Mrs. Henrietta Munn, the victim's aunt.

Dr. Sam smiled and waved

to his relatives and friends when he was brought down from his fourth floor cell for his first courtroom appearance since Blythin sentenced him to life imprisonment last December.

Corrigan said Dr. Sam asked

a new trial on grounds of "new evidence which could not by reasonable diligence" have been discovered in time to present at the original trial.

He said Kirk's affidavit was the main defense evidence, and offered six other sworn statements to support it and prove that these findings could not have been available earlier.

Sam Right-Handed

These statements were from: DR. SAM—who said he is right-handed (Kirk says the killer was left-handed).

SAM'S BROTHERS, Dr. Richard and Dr. Stephen, and their family attorney, Arthur E. Petersilge, who said the authorities denied them access to the murder home for months after Marilyn's death.

DR. VERGIL HAWS, Bay

View Hospital pathologist, who told how he scraped the blood spot which Kirk identified as that of "the real killer" off the wall.

THE REV. ROBERT G. SCULLY of the Rocky River Methodist Church, who told of watching Dr. Haws scrape off the spot and mail it to Kirk.

Says Time Needed

When Corrigan had presented these documents, Blythin asked: "I wonder if the prosecutor isn't entitled to examine these affidavits and then get his bearings. . . ."

He then adjourned the hearing until tomorrow, adding that the prosecutors could have more time if they required it.

Danaceau requested that the hearing be delayed until next

Wednesday, and Blythin granted the request.

Danaceau and Parrino immediately went into a closed door session with Dr. Alan Moritz, Western Reserve University pathology professor; Coroner Samuel R. Gerber, Deputy Inspector James McArthur, and three Cleveland Crime Laboratory detectives, Henry Dombrowski, Bernard Conley and Jerome Poelking.

Kirk's claim was that his investigation in the murder home at 28924 Lake Rd., Bay Village, and tests in his laboratory at Berkeley, Calif., definitely proved that:

A FINGER of the "real killer" was bitten by Mrs. Sheppard as she fought for her life against a rain of savage blows—probably administered by a flashlight.

BLOOD from the bitten finger dripped in the murder bedroom—and at least one large blood spot on the wardrobe door came from the slayer's wound, rather than the victim or her husband.

THE MURDERER was left-handed, and apparently acquainted with the family and probably "jealous of their athletic tendencies and abilities," as indicated by his smashing of Sam and Marilyn's trophies.

Danaceau's contention is that Kirk must present "new facts, not mere interpretations and opinions," to support successfully Dr. Sam's entitlement to a retrial on the basis of "newly discovered evidence not available at the time of the original trial."

Should Blythin, who presided at the 10-week trial which resulted in a second degree murder conviction, refuse to set aside the jury's verdict, Dr. Sam has another appeal pending before the Court of Appeals. A hearing on this appeal is set for May 23 at Lakeside Courthouse.

Kirk conceded that he had been hired by the defense to make his investigation, and was receiving a fee for his work.

"Entirely Objective"

However, he said, it was "with the specific understanding" that his inquiry would be "entirely objective, and his determination would be without bias or prejudice . . . that his investigation, examination and research would be strictly impersonal, and that the facts would be reported exactly as he found them to be."

Kirk contended that the Cleveland Police Department failed to investigate properly evidence available immediately after the murder, and apparently constructed "a fabric of errors of omission, commission or both."

He termed the prosecution evidence "superficial, incomplete and erroneous in interpretation."

The "most significant evi-

dence" improperly assessed by the prosecution, Kirk contended, was "the blood distribution in the murder room."

Pattern of the blood spots on the walls and doors, he said, showed that the killer was left-handed.

At least one large blood spot, "unique in size and appearance," on the wardrobe door definitely came from the killer's bitten hand, Kirk said.

"It measured about one inch in diameter at its largest dimension," he related. "It was essentially round, showed no

beading. . . . This spot could not have come from impact splatter.

"It is highly improbable that it could have been thrown off a weapon, since so much blood would not have adhered during the back swing for so long a distance, and then separated suddenly at just the right moment to deposit as it did.

"This spot requires an explanation different from the majority of spots on the doors. It almost certainly came from a bleeding hand, and most probably occurred at a time different than the time the hand was wielding a weapon.

"The bleeding hand could only have belonged to the attacker."

Kirk said Mrs. Sheppard's broken teeth, found in the murder bed, must have been broken off when she furiously bit her assailant's finger.

There were no wounds noted on Dr. Sam's hands on the morning of July 4.

Kirk said his conclusions were "not pure speculation, but a reasoned approach to the established facts."

"It must represent at least a close approximation to the truth," he said.