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## 55/05/10 Sheppard Plans New Appeal

Cleveland News

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*News 5-10-55*

# Sheppard Plans New Appeal

## Loses in Blythin Court, Heads For Appellate

The legal machinery moved on today but the dream of freedom was fading for Dr. Samuel H. Sheppard, convicted wife killer.

The handsome doctor from Bay Village was preparing his last ditch assault against the guilt verdict in the Court of Appeals, after twice being turned down in the trial court below.

In 13 days Dr. Sam's attorneys and prosecutors will argue the issue of a new trial in the Appellate Court. Should the prisoner be turned down there he will be transferred forthwith from County Jail to the Ohio Penitentiary to begin a life term for second degree murder.

The 31-year-old defendant's only recourse then for freedom would be a plea to the state and U. S. supreme courts on the grounds that his constitutional rights had been violated.

Dr. Sam was reported morose over the latest legal setback.

### Blythin Rejects Plea

For the second time, Common Pleas Judge Edward Blythin, who presided at the 10-week murder trial, refused to grant the defendant a new trial.

In his latest and final ruling, Judge Blythin held the defense had not produced the new evidence required to reopen the case at this late date.

The jurist branded the defense claims of newly discovered evidence as conjecture and post mortem conclusions that would not have altered the jury's verdict had they been available at the trial.

### Kirk's 'Own Theories'

Referring to a 50-page affidavit of Dr. Paul L. Kirk, University of California criminologist

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# Dr. Sheppard Prepares *News 5-10-56* To File Another Appeal

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hired by the defense to prove Dr. Sam innocent, Judge Blythin said:

"His conclusions are based on his own theories, do not necessarily eliminate Sam Sheppard nor are they necessarily consistent with the theories of the defense at the trial."

Judge Blythin took exception with Dr. Kirk's conclusion that the weapon that was used to beat Marilyn Sheppard to death last July 4 in her Bay Village bedroom was a "heavy flashlight with a flared front edge."

## Contrary to Defense

"All of this is diametrically opposed to the theory of defense at the trial," the judge said in his 16-page opinion. "Great pains were taken to demonstrate that the wounds were approximately the same length, same width and equidistant apart and were not caused by any such weapon as Dr. Kirk imagines, but by a multi-pronged instrument that struck but a few times to cause the wounds on the head

which were vividly shown on color slides on a screen."

The judge also held that Dr. Kirk's analysis of blood spots found on a wardrobe door of the murder room were susceptible to a different interpretation and had been challenged by a state blood expert, Dr. Roger W. Marsters of University Hospitals.

Kirk said the blood spot on the door was that of a stranger, although the same type as Marilyn Sheppard's, and proved the crime had been committed by a left-handed person during a frustrated sex attack.

"We have opinions which are poles apart by two recognized experts," the judge said.

Dr. Kirk, in California, took exception to Judge Blythin's ruling and to his remarks.

"Cleveland decided it has the right man in Dr. Sam," said Dr. Kirk. "The press was largely responsible. It was a matter of mob spirit clamoring for blood. I do not think Dr. Sam got a fair trial and this last move is a miscarriage of justice—simply a face saving maneuver."