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## 55/05/10 Prof. Kirk Rips Judge for Refusing Retrial

Cleveland Press

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Press - 5-18-55

# Prof. Kirk Rips Judge for Refusing Retrial

At his home in Berkeley, Calif., Prof. Paul L. Kirk today blasted Judge Edward Blythin's ruling against Dr. Sam Sheppard's new trial plea as "face saving" and "a miscarriage of justice." He said the jurist didn't recognize the difference between facts and theories.

He blamed the Cleveland newspapers and public opinion for Dr. Sam's arrest and conviction. "It was a matter of mob spirit, with clamoring for blood," Kirk said.

The University of California "crime professor" insisted that his being retained by Defense Counsel William J. Corrigan did not affect his conclusions. "Even if I had wanted to," Kirk said, "I could not have gone against the facts. It would have ruined me professionally."

Corrigan said he would appeal Blythin's ruling to the Court of Appeals at Lakeside Courthouse as soon as briefs and the hearing record can be prepared.

The attorney declined to agree or disagree with Kirk's outburst. "I am a lawyer," he said. "I express my opinions in court."

But, Corrigan added, Blythin's ruling was "not unexpected" to either Dr. Sam or himself.

Blythin rejected Kirk's affidavit with this statement: "It is loaded with criticisms, conjectures and conclusions wholly foreign to that which is contemplated by the law to disclose a basis for a new trial on the ground of newly discovered evidence. The affidavit seeks to conduct a post-mortem examination of the trial. He seeks to review the case and conduct his own trial. . . ."

Blythin pointed out that Kirk's claim that the real killer left his "signature in blood" in the murder bedroom was disputed by another expert, Dr. Roger W. Marsters of University Hospitals.

The judge said the testimony of the two men at the

trial would not have "made the slightest difference in the total evidence," or affected the jury's verdict of guilt.

He suggested that the defense had earlier access to the murder home and could have obtained what Kirk claimed was "new evidence" much earlier.