

Kirschke Files Appeal; Claims False Testimony by Criminalist

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An appeal filed on behalf of Jack Kirschke Wednesday charged that criminalist DeWayne A. Wolfer offered "demonstrably false" testimony which played a key part in Kirschke's conviction on murder charges.

The former deputy district attorney was convicted in December, 1967, of murdering his wife and her lover in the Kirschke apartment in Long Beach. He is serving a life term at California Institute for Men in Chino. He will be eligible for parole in three years.

Wolfer is now acting head of the Los Angeles Police Department's crime laboratory. A Los Angeles attorney charged last May that Wolfer had violated standard precepts of procedure in three capital cases, including those of Kirschke and Sirhan Bishara Sirhan, convicted in the assassination of Sen. Robert F. Kennedy.

Atty. Barbara Warner Blehr's charges were made to the Civil Ser-



Jack Kirschke
Times photo

vice Commission in opposition to Wolfer's still-pending permanent appointment to the crime lab post. The newest allegations were in a brief filed with the State Court of Appeal.

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Kirschke's attorney, Bruce A. Goewey of Tustin, charged in his appeal brief that:

—The trial court in June, 1968, failed to grant a defense request for an inquiry into charges that Wolfer might have committed perjury during the trial.

—New photographic techniques subsequently confirmed the perjury—but too late for it to be considered a basis for a new trial.

Goewey's brief, filed Wednesday with the court of appeal's 2nd District, states that "... Mr. Wolfer's false testimony amounts to knowing perjury, as opposed to an appalling reflection of incompetency..."

At the Kirschke trial, Wolfer testified that bullets taken from the bodies of Elaine Kirschke and Orville W. Drankhan were fired from a pistol identified as Kirschke's and from "no other gun in the world." The testimony and bullets placed in evidence played a major point in the case against Kirschke.

Goewey's brief was based on the investigations of William W. Harper of Pasadena, defense criminalist in the Kirschke case.

Weapon Missing

The murder weapon was never found. Kirschke had owned a .38-caliber pistol from which test bullets fired earlier were available, and it was these which Wolfer compared with the fatal bullets—also .38-caliber—in his testimony.

The brief said Harper found that points of similarity used by Wolfer in matching the fatal bullets with the test bullets were "demonstrably false."

George T. Davis, the attorney who argued unsuccessfully for a new trial for Kirschke in June, 1968, questioned the validity of Wolfer's testimony. The court refused to reopen the matter. Goewey said that photos Harper made later of both sets of bullets with new, specialized camera equipment proved Harper right and Wolfer wrong.

Mrs. Blehr last May quoted Harper in challenging Wolfer's testimony in the Sirhan case. Harper said there were indications some of the bullets Wolfer said were fired from Sirhan's gun might have come from two different weapons.

Wolfer's attorney termed Mrs. Blehr's charge "absurd." Wolfer declined to comment Wednesday on Goewey's appeal brief.