

By Ben Funk

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MIAMI—For six awful years, Joseph Shea has lived in a nightmare, caught in a web he helped to spin. Shea, 26, a product of a devout Catholic family, has spent years in a Florida prison for a murder he confessed to committing.

Now, his attorney, Harry W. Prebish, predicts that Shea will be freed at a new trial beginning Feb. 14, because he is innocent.

"Of this," says Prebish, "I am more sure than I have ever been of anything in 20 years of criminal law practice."

If the slender, good-looking New Yorker regains his freedom, it will be because three men refused to believe he was guilty and fought to correct what they considered a miscarriage of justice.

The three have compiled a record of evidence that Shea could not possibly have committed the crime for which he was convicted—the murder of Mary Meslener.

The men are: Gene Miller, a Miami Herald crime reporter who tracked down evidence for six months and, with the influence of his newspaper, forced an official investigation and the new trial.

Warren D. Holmes, owner of a lie detector service and former president of the Academy for Scientific Interrogation. At the time of the murder, Holmes was chief examiner for the Miami Police Department. His tests indicated Shea was innocent.

Philip Thibedeau, a detective who directed the original investigation of

...He Said He Killed Her...

These Men Said He Didn't

the Meslener murder.

A Murder Committed

ON Feb. 23, 1959, Mrs. Meslener, 23 and blonde, punched a timecard at the Miami International Airport office of National Airlines at 7:36 p.m., marking the end of her eight-hour stint as a reservations clerk, and walked into the night.

Two days later her body was found, concealed by bushes, on a canal bank three miles northwest of the airport. She had been shot in the head. Her car was located April 3, abandoned in Tampa, 250 miles away. It was blood-stained.

On May 7, Airman Third Class Jo-

seph Shea went to his sergeant at the West Palm Beach base and handed him a bloody yellow shirt. Shea stuttered that he must have done something terrible, but couldn't remember it. The sergeant was skeptical. For four months, Shea had complained of headaches and blackouts. But psychiatrists had found him fully competent, and had accused him of trying to fake his way to a medical discharge. Shea had admitted it.

Once again, psychiatrists concluded that he was faking, but the Dade County homicide bureau at Miami sent Thibedeau to question Shea about the Meslener killing. Thibedeau found nothing to connect him with it.

Tests established that the blood on the shirt was human and Sgt. (now Capt.) Pat Gallagher, another Dade County detective, began a second interrogation of Shea on May 16. Two days later, Shea signed a statement admitting he killed Mrs. Meslener.

It was a vague, rambling statement, so county authorities took Shea to Holmes, the lie detector expert, for

tests.

"He knew nothing of the intimate details of the crime," Holmes said. "I told Shea he was making it all up. He shrugged and said, 'I didn't think you would believe it. They broke me down.'"

That afternoon, at a news conference, Shea repudiated the confession and claimed he hadn't been in Miami the night of the crime. He said he had concocted the story so he would be "put away" to end his troubles.

"But now, everything is a whole lot worse," he said, clenching and unclenching hands stained by the nicotine of four packs of cigarettes a day.

The Second Confession

THAT NIGHT, AFTER another two-hour interrogation, Shea again confessed to Dade County detectives. He was indicted for first degree murder, and psychiatrists at Miami's Jackson Memorial Hospital found him competent to stand trial.

In the second confession, Shea said he hitchhiked from the base to Miami, getting two rides on the 75-mile trip; had drinks in several downtown bars; rode a bus to the airport to steal a car, and was caught by Mrs. Meslener.

Shea said Mrs. Meslener screamed and he knocked her unconscious with a pistol he had stolen from another car. When she recovered and screamed again, he shot her in the head as he cradled her in his arms. He dumped the body, drove to Tampa to abandon the car, and returned to his base.

At the trial, Mike Zarowny, court-appointed defense attorney, argued that Shea's confessions were full of erroneous details and were not corroborated by any physical evidence, as required by law. Zarowny lost a plea for access to the state's evidence and, as Shea fidgeted silently, the bloody shirt was placed before the court.

"It was an article of morbid fascination to him—a symbol of his act," testified an Air Force psychiatrist, Lt. Col. Arthur W. Brown.

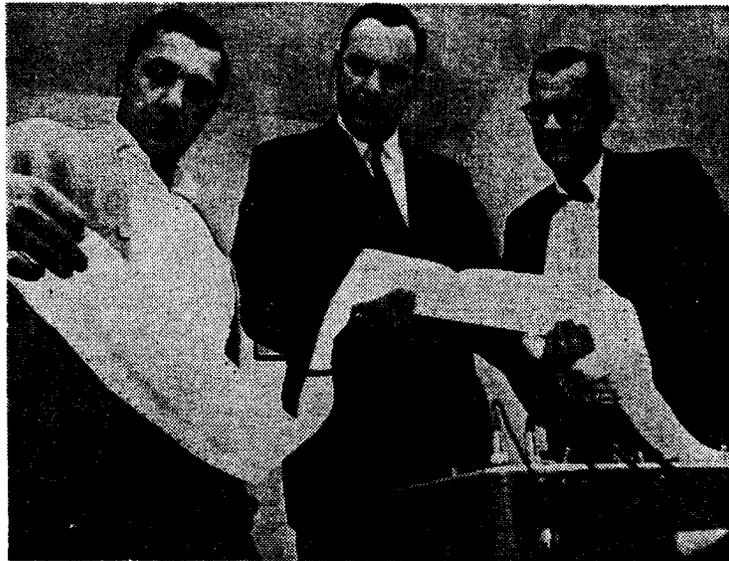
Edward T. Whittaker, a county crime

laboratory man, testified that blood on the shirt was all B-type, Shea's type, except for "a little spot" of O-type, Mrs. Meslener's type.

Shea did not take the stand. "I could not put him on," Zarowny said. "He was trying to destroy himself."

On Nov. 4, Shea was convicted. The jury recommended mercy, which meant an automatic sentence to life in prison instead of the electric chair.

On Nov. 17, Circuit Judge Ray Pearson sentenced Shea and he became a number at Raiford Penitentiary. He was discharged—dishonorably—from



Associated Press Photos

Former detective Philip Thibedeau, lie detector expert Warren D. Holmes and reporter Gene Miller examine a polygraph report.

the Air Force.

Search for Justice

WHEN THIBEDEAU heard of the verdict, he was astounded. His efforts to establish Shea's innocence had led to friction in his department, he said, and he had resigned to become an investigator for the state, a job he still holds.

"There were so many points that didn't fit," Thibedeau said, "that after the conviction I kept nagging at it. But the confession was a big handicap."

Holmes, too, was surprised by the jury's finding. The second confession "bothered the hell out of me," he said.

Thibedeau and Holmes continued to ask questions, but failed to turn up enough evidence to demand a reopening of Shea's case. Then, last spring, Holmes said, "Phil busted into my office."

"If I had known then what I know now," Thibedeau shouted, "I would have gone into court with a shotgun to keep them from sending that kid to prison!"

During the initial investigation, Thibedeau had led Shea through a re-enactment of the crime. Now, six

years later, he told Holmes, reporter Miller had stumbled across information that other officers had taken Shea to the scene twice before. Miller tipped Thibedeau.

Thibedeau and Holmes decided they needed a newspaper to support their efforts to free Shea. Thibedeau went back to Miller. The Herald promptly joined the campaign.

Miller began his investigation with a lengthy interview of Shea. Next he wangled permission to see the state files on the case. Then, in person and by telephone, Miller questioned every person he could find who had any connection with the case. The result was a file of new evidence indicating Shea never saw Mary Meslener, plus other evidence that wasn't presented at the first trial.

Now the trio needed an attorney.

"They came to me," Prebish recalls, "and said they had two problems. The first was that they had no money. The second was that this flight might reflect on some prosecuting authorities. I had no hesitancy. My only concern was whether there had been a fair trial."

New Trial Fuel

IN HIS NEW TRIAL motion, Prebish charged that Shea's confession was obtained by fraud and duress; and that the state withheld evidence favorable

to Shea.

Strongest of the evidence, Prebish said, will be:

1. Testimony from Alexander S. Wiener, a Brooklyn blood expert, and from a Dade County crime laboratory man, Paul Serene, that none of Mary Meslener's blood was on Shea's shirt and there would have been a lot of it if he held her in his arms when he

shot her, as he said." These reports were not presented at the trial.

2. An Air Force logbook—backed up by testimony—showing that Shea was on duty at the West Palm Beach base until 6:30 p.m. the night of the murder and could not have reached the Miami airport in time to encounter Mrs. Meslener shortly after 7:30. The state had the logbook but did not take it to court.

3. Dr. Raymond A. Justi, an assistant medical examiner, found no medical evidence that Mrs. Meslener received a blow from a pistol butt, but he was not asked to testify.

4. The state did not bring out that a palmprint found on the steering wheel of the murder car did not belong to Shea, Mrs. Meslener or her husband, Frank.

5. The state did not disclose that a wallet stolen from Mrs. Meslener was found in a locker at a military installation at the Miami airport with which Shea had no connection.

Two months after Prebish went to court—and six years to the day after Shea's conviction—County Attorney Richard Gerstein joined in the motion for a new trial. Judge Pearson then set aside Shea's conviction "in the interest of justice."

Gerstein has declined comment on the case pending the new trial. He was County Attorney when Shea was convicted, but the prosecution was handled by an assistant.

Shea Is Interviewed

IN A JAIL CELL interview, Shea said: "I want to testify now. It's an awful thing to go to prison for something you didn't do. I guess this whole thing is my own fault. They said they didn't really need a confession, because they had enough to send me to the chair. They said my only hope of escaping the chair was to confess. They said a witness had seen me buying a bottle of whisky at the airport the night of the murder. They said they found my fingerprint in her car and her blood and her blonde hair on my shirt. They said the lie detector tests proved me completely guilty."

Shea said he reached a point where he didn't care whether he lived or died,

"and I was glad in a way to get the whole thing over with. But I was so confused I kept going both ways. First, I would think, 'Let them convict me. I don't care!' Then I would remember my family and how it would hurt, and I would retract the confession and tell the truth."

Shea said he cut himself and smeared his blood on the shirt. He had intended, he said, to get a discharge by feigning amnesia. At the time, he related, he was suffering severe mental depression. It started when he had an affair with a girl during a duty tour in the Philippines. He wanted to marry her, but she took their illegitimate child and ran away.

Because of his strict Catholic training, Shea, a one-time altar boy, was mentally tortured by the affair.

Later, another love affair went sour. It was then, Shea said, that he "began pulling little things—forgetting assign-

ments" in the hope of obtaining a discharge.

In the new trial, Prebish says he will contend that Shea's fingerprint was not in the death car, that he was not seen at the airport the night of the murder and that lie detector tests did not indicate he was guilty.

Informed of Shea's story, Capt. Gallagher said "I have no comment."

Truth Serum Test

DISTURBED BY the effort to free Shea, Frank Meslener came to Miami from New York, where he now works as a refrigeration engineer. He suggested to Gerstein that Shea be given a truth serum test.

In the presence of Meslener, Shea was given sodium amytal injections. Deep in narcosis, he was asked:

"Did you kill Mary Meslener?"

"No, sir," he said. "I didn't kill anyone."

"Why did you confess?"

"I didn't want to live."

"Why did you want to die?"

"I made a girl pregnant. In the Philippines, in the Air Force. My family—they would have been terribly ashamed."

Eight of the jurors who convicted Shea told reporter Miller they favored a new trial.

"It is a very fortunate thing," said one of them, Raymond C. Maxwell of Miami, "that we recommended mercy."

Of the remaining four jurors, two declined comment and two could not be found.

"If I get out," Shea said, "I'll probably go to Boston where by mother (Mrs. Cornelius Shea) lives now, or wherever I can make it in civilian life. First, I want to find a way to repay the men who helped me."

These men—Miller, Holmes and Thibedeau—now hope to bring the case to a perfect conclusion by obtaining an indictment of the real killer.

"A man believed to have hidden Mrs. Meslener's wallet in the locker at the airport was the prime suspect at first—until Shea's confession took detectives off his trail," Holmes said.

"A woman gave this man an alibi for the night of the murder, but detectives were suspicious about it. They issued a subpoena for her, but when they went back they found she had fled into Cuba. We learned recently that she is trying to get back on the airlift.

"We believe she will change her story."

