

Look Ma, no hands



PATRIC SCHNEIDER/THE BATTALION

Carlos Herbas, a graduate from Southwest Texas State University, waits for his friend to get out of class by the MSC.

Jury selection begins in Sheppard civil trial

CLEVELAND (AP) — Jury selection started today for the civil trial aimed at deciding whether Dr. Sam Sheppard killed his wife in the sensationalized case that helped inspire the movie and TV series "The Fugitive."

The first group of 50 jurors entered Cuyahoga County Judge Ronald Suster's courtroom late in the morning.

Each prospective juror faced a form requiring answers to about 80 questions.

Eight people will ultimately be seated on the panel, along with four alternate jurors.

All of this week has been set aside for jury selection and the trial could take an additional two months to complete.

The lawsuit was filed by the doctor's son, Sam Reese Sheppard, in an effort to clear his father's name through a declaration of innocence.

That could allow the son to collect damages from the state.

In a highly publicized trial, the elder Sheppard was convicted in 1954 of murdering his wife, Marilyn.

That verdict was thrown out by the U.S. Supreme Court in a landmark ruling on the unfair effect of pretrial publicity, and Sheppard was acquitted at a retrial in 1966. He died in 1970.

Arguments on motions took up all of last week.

On Friday, Suster ruled against one major plaintiff's motion, deciding that testimony from the 1954 trial was not tainted and may be read into the record for this trial.

Prosecutors defending the state said they have no choice but to read transcripts to the jury because the case is 46-years-old and many original witnesses have died.

Sheppard's lawyers argued that the testimony was tainted because it had been publicized before witnesses appeared in court.

Attorneys for the Sheppard estate also failed in an attempt to bar testimony by Dr. Elizabeth Balraj, the Cuyahoga County coroner, arguing that she rubber-stamped the findings of other experts instead of preparing her own report.

The judge said Balraj would be given a chance to file a supplemental report.

Her office has worked with outside experts to gather and evaluate evidence, especially since October, when Mrs. Sheppard's body was exhumed.

The elder Sheppard always insisted that a "bushy-haired intruder" killed his wife in her upstairs bedroom while he slept downstairs.

He said he heard his wife's cries and ran to help her but was knocked unconscious by the killer, who fled from the family's home on Lake Erie.

The Sheppard legal team has said the mostly likely killer of Mrs. Sheppard was Richard Eberling, the family's window washer at the time.

He died in prison in 1998 after being convicted of killing a woman for whom he worked as a caretaker.

Students will not appeal federal TAAS decision

AUSTIN (AP) — A group of minority students who lost a federal lawsuit seeking to overturn the state's high school exit test won't appeal a judge's ruling that upheld the exam, their lawyer said Monday.

"This has been an extremely difficult decision for us," said Al Kauffman of the Mexican American Legal Defense and Educational Fund.

"We feel there are serious errors in the facts and law of the decision, but we have to weigh the chances of success against the chances of creating a bad standard in this area of the law," he said.

Last month, U.S. District Judge Ed Prado in San Antonio ruled that the high school Texas Assessment of Academic Skills test is constitutional.

He rejected legal claims that the exam discriminated against blacks and Hispanics.

Prado said exam opponents failed to prove that the adverse impact of the 10-year-old standardized test on minorities is greater than the positive impact or that other approaches would work as well.

Texas students must pass the exit-level reading, writing and math test before receiving a diploma.

The exam is given in 10th grade and students get at

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— Al Kauffman
Mexican American Legal Defense and Educational Fund member

least seven chances to pass before graduation.

MALDEF's decision was good news to Education Commissioner Jim Nelson.

"It means that the litigation surrounding the test is now over, and those of us at the Texas Education Agency can concentrate on continuing to prepare our schools for the changes and challenges that lie ahead," Nelson said Monday.

Kauffman echoed the plaintiffs' vow to continue fighting the test in the Legislature, before the State Board of Education and in public forums.

"We had to balance the opportunity to get a diploma for tens of thousands of Texas students who finished all their high school requirements except the TAAS, against the chances we have to address the terrible effects of these tests in other cases and in other ways," he said.

Kauffman said despite the court loss, the plaintiffs think the lawsuit has done some good.

"We have increased the understanding of these tests by building an excellent base of research and evidence on them," he said. "Unfortunately, we did not sufficiently convince the court on all of our points."

The state says the performance gap between minorities and white students is closing and that the TAAS test is an important component in Texas' school accountability system.

Last spring, 60 percent of blacks, 64 percent of Hispanics and 86 percent of white sophomores taking the test passed, according to TEA.

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- At least two of the three candidates from each team MUST ATTEND an instructional meeting on February 15 at 5:30 p.m. at the Clayton W. Williams, Jr. Alumni Center

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