

# THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## Trials&TRIBULATIONS

### The Hetenyi murder trial: A case for the ages

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The discovery on April 23, 1949 of a young woman's body floating in the Genesee River set in motion a criminal investigation and subsequent prosecution that was unprecedented in the the Rochester area.

Three capital murder trials, three reversals by appellate courts and a fourth trial ordered by the U.S. Court of Appeals for the Second Circuit ultimately resulted in the defendant pleading guilty to manslaughter and being released from custody. Although there have been many celebrated trials in Rochester, some say this case with its multiple trials warrants the title Rochester's "Trial of the 20th Century."

#### Investigation and arrest

The front page of the Sunday, April 24, edition of the Democrat and Chronicle showed a picture of an unidentified deceased woman. Rochesterians contemplated the wide-eyed woman's identity over breakfast. Not to be outdone, the Rochester Times-Union, on its April 25 front page, placed the head of the deceased victim on a mannequin and asked: "Do you recognize her?" More than 600 people thought they might, and viewed the woman's remains at the Monroe County Morgue.

FBI fingerprint analysis eventually identified the victim as Jean Gareis of Oakland, Calif. Further investigation revealed that, in August 1945, she married the Rev. George Hetenyi who lived near Buffalo. A middle-of-the-night Monroe County posse, including Sheriff Skinner, Chief Deputy O'Loughlin, two deputies and, strange as it may seem, newspaper reporter Roy Elliott of the D&C, went to Buffalo to confront the prime suspect. They found Hetenyi at home with his mother, Caroline, and the two Hetenyi children, aged two years and nine months.

At first reluctant to travel to identify his wife's body, Hetenyi was persuaded to come to Rochester, but not before the heavily armed police conducted a warrantless search of his home and automobile. A number of damaging pieces of evidence were found.

At the morgue, the Rev. Hetenyi, an Episcopal Minister, identified his wife, then proceeded to pray over her body. Hetenyi was held for questioning in the sheriff's private quarters and, despite repeated requests for counsel, no attorney was provided.

The newspapers, which seemed to have a direct line into the sheriff's office, provided intimate details regarding Hetenyi's and his wife's backgrounds, and of the mounting evidence being uncovered. In the automobile police found blood stains, a bullet hole and a .25 caliber bullet. Hetenyi's wife was killed by two bullets fired from a .25 caliber automatic pistol.

Hetenyi was born in Hungary in 1909, and a graduate of the Royal Hungarian Pazmany University, where he obtained a doctorate in 1937. In 1938, he arrived in America with his mother. He claimed to have been ordained a Catholic priest in Hungary, but he became a minister of the Greek Orthodox church and, later, the Episcopal church. Hetenyi was an Episcopal supply minister, which provided temporary work in Episcopal parishes in Oakfield and Batavia.

The decedent, Jean Gareis Hetenyi, was born in Oakland, Calif. on Oct. 29, 1923, and a graduate of the University of California. She met with considerable success as a concert violinist and played with the Oakland Symphony. Her first husband was lost in action during World War II, and, within four months of learning of her husband's death, she met Hetenyi in Oakland. After a whirlwind courtship, they were married in August 1945, over the objections of her family.

Newspapers reported on the marital difficulties experienced by the Hetenyis, which apparently occurred while they lived in California, Texas and even after they moved to the Buffalo area in 1948. The couple lived in a rented apartment in the Town of Amherst and neighbors told of frequent violent arguments between them.

On April 26, 1949, Hetenyi appeared in Monroe County Court and was committed to the county jail in lieu of \$50,000 bond as a material witness in the slaying of his wife. Despite the precarious position he faced, he was without counsel and no attorney was appointed to represent him until the well known, and very capable, George Skivington was given the assignment six weeks later on June 11. Skivington was assigned as Hetenyi's counsel on the same day Hetenyi was arraigned on charges of first-degree murder of his wife. He entered a not guilty plea and was remanded to the county jail.

#### Challenge to the array

In response to the court's order directing a panel of 150 jurors to be drawn, Skivington challenged the panel on a number of grounds, including the allegation that the jury commissioner discriminated against "the common working people, persons of foreign birth — particularly the large so-called Italian population of the City of Rochester, and against Negroes."

The challenge was described in the newspapers as an "unprecedented attack" on the Monroe County jury system.

In an opinion dated Dec. 3, Judge O'Mara disallowed the challenge and refused to pass on the defendant's claim that the panel did not represent a cross-section, or was a so-called blue ribbon panel. Jury selection began Dec. 5, and even though it was a capital murder case, a jury of 12 with two alternates was selected in little more than three days.

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## Continued ...

Looking at the names and faces of the 12 jurors whose profiles, names and photographs were highlighted on the front page of the Democrat and Chronicle, it was evident Hetenyi's fate would be determined by a fine upstanding group of registered Republicans.

## The trial

The trial was held in what is now known as the County Office Building on Main Street and, every day, long lines of spectators assembled for the opportunity to view the proceedings. District Attorney Clarence Henry was the lead prosecutor, and George Skivington was assisted by his son, George Jr.

Throughout the trial, the defendant wore the garb of an Episcopal minister and read his prayer book while in the courtroom and before proceedings began each day. His mother was present throughout. The prosecution's case was based on circumstantial evidence since the defendant never admitted any involvement in the murder, despite being interrogated repeatedly without counsel.

The evidence, although circumstantial, was significant and was presented through the testimony of 47 witnesses over two and a half weeks:

- The decedent was killed by two .25 caliber gunshot wounds to the chest, and was dead when she was placed in the river.
- A vast amount of blood was found throughout defendant's 1947 Oldsmobile and a bullet was found in the interior of the door. The bullet was fired from the same pistol that fired the two bullets recovered from the body.
- The defendant requested a dry cleaner in Buffalo to clean human blood spots from the interior of the vehicle.
- There was evidence that the defendant beat his wife.
- Several witnesses stated that, early Saturday morning, April 23, the defendant was in the Rochester area asking about the direction of flow of the Genesee River
- A witness said a holster capable of holding a .25 revolver was found near the body on the banks of the river and had been seen in the possession of the defendant.

Although the defense presented no witnesses, it raised objections to the introduction of the holster, and argued that no link was established with the defendant. The defense focused on the absence of proof as to where the crime occurred.

The defense's major thrust at trial was the issue of venue. Although the indictment stated the defendant willfully, feloniously and with premeditation killed Jean Hetenyi, Judge O'Mara charged the jury that "it makes no difference as to where those shots were fired in view of the evidence that has been presented during the course of this trial."

He further charged that the finding that the decedent was found in Monroe County was sufficient to create a presumption that the shots were fired here, too.

Skivington requested the court to charge the jury to find that the killing occurred here in order to vote for conviction, but the court declined and, as it developed, this was a reversible error.

## Jury deliberations

The jury was asked to deliberate and find whether the defendant was



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guilty of murder in the first or second degree, manslaughter or not guilty. The jury left the courtroom to deliberate on Dec. 15 at about 5 p.m., meeting throughout the evening before being held over at the Powers Hotel until the next morning. At 9 a.m. the jury resumed deliberations and returned a verdict at 11:30 a.m. They found the defendant guilty of second degree murder.

On Jan. 16, 1950, the Hetenyi was sentenced by Judge O'Mara to a minimum of 50 years to life and was transferred to Attica.

## The appeal

The appeal was argued on May 15, 1950, before the Appellate Division, Fourth Department. On July 13, the court reversed the conviction and ordered a new trial. The panel concluded it was an error to refuse to charge the defendant's request that the jury was required to find the killing occurred in Monroe County; it was a reversible error to charge the jury that "it makes no difference as to where those shots were fired."

The court also concluded the receipt in evidence of the leather holster, picked up near the body of the decedent, also was in error.

## The saga continues

The second trial was also held in Rochester, this time before Judge O'Connor. DA Henry was, again, the chief prosecutor, along with ADAs Harry L. Rosenthal and John C. Little Jr. Again, the defense was George J. Skivington and George Jr.

Although the defendant was found guilty of second degree murder in the first trial and, therefore, escaped death, he once again faced a first degree murder charge and a possible trip to the electric chair.

The retrial commenced on April 25, 1951, and there was a similar challenge to the makeup of the jury by the defense, and it appears Judge O'Connor summarily denied it. The makeup of the jury appeared strikingly similar to that of the first trial; however, some of the jurors' profiles gave the appearance of more middle and lower income individuals, therefore it appeared that some Democrats were slipped in to the jury pool.

The prosecution's proof was the same as that presented at the first trial, with the exception that the district attorney submitted three new witnesses who linked Hetenyi to the ownership of a .25 caliber pistol,

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## Continued ...

and some of them came from as far as California.

The trial took more than two weeks to complete and at its conclusion, Henry committed a reversible error when he said, "I say to you that lonely dark place on the bank of the Genesee River is the place at which you must infer in light of all the evidence in this case that this crime took place. By what ruse did this defendant bring her down there, you'll never know, nor I'll never know, not as long as he stands on his Constitutional rights so called."

Despite objections by Skivington to such comments, the trial court said nothing.

The prosecution focused on the character of the defendant in the summation, and his switching from one religion to another. Although the histrionics worked well with the jury since it returned a verdict of guilty in the first degree sending Hetenyi to the electric chair, it also served as the basis for a winning appeal.

On May 29, 1951, Hetenyi was sentenced to death in the electric chair, set to occur the week of July 16. Since it was a capital case, it could head directly to the Court of Appeals.

## Another appeal

On April 23, 1952, the Court of Appeals, in a 4-3 Decision, reversed the conviction and, for the second time, ordered a new trial. The majority concluded Henry's summation contained reversible errors, including references to the defendant's standing on his Constitutional rights and to his character. The court stated "Character is never an issue in a criminal prosecution unless the defendant chooses to make it one."

## The move to Syracuse

Skivington was paid a total of \$2,000 plus disbursements for his representation. Understandably he chose to withdraw and requested a new attorney be appointed — Leo T. Minton was, but Hetenyi rejected the assignment and announced his retention of well-known attorney Bill Clay, instead.

Among the numerous motions Clay filed was one for a change of venue, which was granted by Justice John VanVoorhis. The trial was transferred to Syracuse.

The third and final trial opened on Jan. 19, 1952, in Supreme Court, Onondaga County. It was presided over by Justice Earl Bastow of Utica.

The prosecution's case was again presented by Henry and it mirrored the second trial in most respects; however, the defense's new strategy was to have Hetenyi's 78-year-old mother take the stand. Although her Hungarian accent was difficult to understand, she testified that the shooting occurred in Erie County and her daughter-in-law committed suicide by shooting herself in the garage of their Amherst apartment. Mrs. Hetenyi said her son was in the bathroom when the self-inflicted wounds were administered. He allegedly rushed to place his wife in the car and drove to a hospital. The mother said she never saw her daughter-in-law again, and never asked what happened. The jury rejected her testimony and found the defendant guilty of second degree murder. He was sentenced to

40 years to life and transferred to Attica.

The Appellate Division affirmed the conviction with little difficulty on Nov. 18, 1953 in a one-page opinion.

Although residents in Rochester believed the case was finally over, Hetenyi did not. For the first time, he filed writs of *habeas corpus* claiming he was subjected to double jeopardy since he was retried for murder in the first degree, even though he was only found guilty of second degree murder in the first trial and, in essence, acquitted of first degree murder. The courts denied his applications as he never raised the objection in his second or third trials. It wasn't until the Second Circuit heard the argument on March 12, 1965, when Hetenyi finally found a sympathetic ear. He was denied habeas corpus by Judge John Henderson, and the Court of Appeals in a 2-1 decision reversed the conviction. The court found that the due process clause was violated and it "was fundamentally unjust to prosecute Hetenyi for first degree murder after the completion of the first trial and such a re prosecution was cruel and inhuman." The majority ordered a new trial.

The case was assigned to Justice Fred Marshall and the prosecution offered Hetenyi an opportunity to plead guilty to manslaughter and be sentenced to time served.

## Return to religion

On June 2, 1966, Hetenyi pleaded guilty to first degree manslaughter was sentenced to time served, plus six days. He was released from prison after 17 years, later announcing to a disbelieving public that he was accepted into a monastery in the Midwest. He told the court at his sentencing he would enter the religious life and do penance from here on out. His attorney, Alexander Hercsa of Syracuse, said Hetenyi's excommunication was lifted by a decree from the Vatican, which made him eligible to become a monk upon his release. A review of Westlaw death records Hetenyi died in Phoenix in April 1977 at the age of 68.

## Legal ramifications

Hetenyi's case resulted in the passage of state legislation enabling a defendant to be prosecuted either in the county where a murder was committed or in the county where a body is found, eliminating the major issue raised by the defense throughout the trials. In addition, the jury pool in Monroe County significantly was expanded to make it more representative of a cross-section of the population.

The criminal procedure applied in Hetenyi's case is foreign to our present procedures. It took place before the Warren court revolution and expanded rights for criminal defendants. In accordance with today's procedures, the case would have been handled dramatically different, or never would have reached the jury. All of those with major roles in the Hetenyi drama have long since departed. Looking back, the one person who epitomizes the true professional is George J. Skivington Sr., who undertook an unpopular assignment with skillful advocacy, superb judgment and all for very little money.

Although he died before Hetenyi was released, Skivington's words and oratory live on in the records on appeal in this case as a lasting memorial to a superb and dedicated trial attorney.