

## NEW TRIAL IS ORDERED IN 1979 TRIPLE MURDER

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**Frank Lee (Nitti) Usher** , convicted in a highly publicized and controversial 1979 triple beheading murder case in Detroit, was granted a new trial Thursday by Recorder's Court Judge David Kerwin.

Kerwin set aside **Usher** 's 1980 conviction, saying a 1984 Michigan Supreme Court ruling upheld his unsuccessful efforts to bar or limit introduction of surprise prosecution evidence during **Usher** 's trial.

The Wayne County Prosecutor's Office announced it would try to overturn Kerwin's decision.

**USHER** , WHO is being held without bond pending a pre-trial conference, smiled broadly and gave a high sign to friends and relatives in the courtroom.

Wayne County Prosecutor John O'Hair, calling Kerwin's ruling "illogical," said, "If any error whatever occurred during that trial, it did not touch upon the fairness of the trial nor upon the guilt or innocence of the defendant."

Defense attorney Steve Fishman said the ruling "is not a technicality, not just nit-picking. We're concerned about a basic rule of fair play in trials."

O'HAIR SAID if Kerwin's decision withstands further challenges, the case will be retried despite the lapse of five years.

**Usher** , 40, was convicted of murdering William Clark, Willie McJoy and Joanne Clark at the Michigan Federated Democratic Club, a social club on Detroit's east side, in a narcotics dispute. The victims were found in a van abandoned several blocks from the club with their heads and hands cut off.

He was sentenced to life imprisonment.

DURING **USHER** 'S trial, Assistant Prosecutor Robert Healy contended that **Usher** , while not a triggerman, was a "string puller" in the killings. The defense argued that **Usher** was a target of the killers and managed to talk his way out of tight spot, co-operating with the gunmen after the killings only to save himself.

The case against **Usher** was strengthened by the surprise "second statement" of star witness Cynthia Skeens in midtrial.

Kerwin's order for a new trial grows out the legal fracas surrounding that statement.

SEVEN DAYS after the trial began, Healy said he had forgotten being told that Skeens, in addition to a written statement, had told police that **Usher** talked with her after the killings about "taking out" witnesses.

When Kerwin proposed barring the statement or admitting with a strong-worded cautionary instruction to the jury, the prosecution went to the state Court of Appeals, which said the statement could be used without the warning.

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