

Prosecutor's dedication born of father's death A son pursues the law; a serial killer awaits fate
By Michael Heaton
Plain Dealer Reporter

Sunday, June 15, 2003
Edition: Sports Final, Section: National, Page A1

FATHER'S DAY

The remaining few "It's a boy!" cigars lay on the kitchen counter. Neighbors entered through the side door, carrying casseroles. The phone rang with congratulations for the beaming dad, Brendan Sheehan, still wearing a plastic wristband from the hospital.

Sheehan, Cuyahoga County's 35-year-old boy-wonder assistant prosecutor, smiled and hugged his two daughters after returning home from seeing his son. In the living room, 5-year-old Erin and 3-year-old Makayla were having a kiddie birthday party to mark their little brother's birth.

But one Sheehan family member was absent. He was represented by an old photograph, prominently displayed on a living-room table. It wasn't the only birthday Timothy Sheehan, Brendan's dad, missed. On Aug. 27, 1982, he was due home from work to take the family out to dinner to celebrate his only son's 15th birthday.

Timothy Sheehan never came home that day. His murder by serial killer Frank Spisak, a nebbish neo-Nazi tormented by his desire to become a woman, resulted in one of the most bizarre trials in Cleveland history and forever intertwined the lives of Spisak, Prosecutor Donald Nugent and young Brendan Sheehan.

Timothy Sheehan was a model of Irish immigrant success. He was the oldest of six children and the only one to cross the Atlantic in search of a better life. Sheehan's wife, Kathleen, was also a native of Ireland. She immigrated first in 1954. He followed in 1962. A year later, they married.

His first job in Cleveland was running the warehouse at Higbee's downtown. By 1980, he was superintendent of the physical plant department at Cleveland State University. He was a hard worker, devoutly religious and a devoted family man. He rode the bus every day to save money for his children's education.

Tradition dictated that one or more members of the family greet Timothy Sheehan at the bus stop each evening when he returned from work.

That's where Brendan and his mother were on Aug. 27, 1982. Shortly after they gave up waiting and returned home, a Fairview Park police car rolled ominously into their driveway.

Timothy Sheehan had been found dead, shot four times at close range in a basement men's room at CSU. It looked like a robbery/homicide, police said. His watch, wallet and beeper were missing. There were no suspects. Timothy Sheehan was 50 years old, leaving behind his wife and four children.

"Within an hour, the house was full of people," Brendan said. "Relatives, neighbors. The parish priest was there. There was a lot going on. We were all in shock."

In the pain and confusion of the next few days, Brendan found a way to deal with his father's death. He insisted on writing and delivering the eulogy.

"Our father was someone who . . . guided and inspired," Brendan said at the funeral Mass. "His heart was a treasure of kindness and strength, of manliness and honesty. Daddy is someone whose love we will cherish forever. For no one can ever take Daddy's place."

The last man who saw Timothy Sheehan alive was a 32-year-old neo-Nazi with a history of problems.

"Mr. Sheehan looked at me when I shot him," Spisak said months later. "I was a little disturbed by that. He looked right at me. He looked at me with eyes that didn't comprehend. No fear or anything. He looked at me with an absolutely blank look. One minute he was looking at me, and the next minute I shot him."

Spisak was picked on and bullied as a boy. At age 8, he said, he recognized the desire to be female. He found refuge from his personal torment in the hatred espoused by white supremacy groups. After high school, he had difficulty staying employed. When a brief marriage ended, he began experimenting with homosexuality and cross-dressing. He once was arrested for prostitution while dressed as woman.

Four months after Sheehan's death, Cleveland police followed up on a complaint that someone was firing a gun from the window of a second-floor apartment at East 53rd Street. They arrested Spisak and seized a .22-caliber automatic and

three other guns. He was released on a \$200 bond, but after police received two anonymous calls linking him to other deaths, he was rearrested.

Officers soon discovered Spisak had been on a rampage. Sheehan's death was one of three murders and two attempted murders. Spisak also was indicted for the murders of the Rev. Horace Rickerson, 57, and Brian Warford, 17, and for the attempted murder of John Hardaway, who was shot five times but lived. Spisak also was charged with the attempted murder of CSU chemistry lab assistant Coletta Dartt, who fended off an attack by Spisak.

The city was relieved. A very scary character was behind bars. The pending trial would show just how scary.

The four-week trial, which began in June 1983, turned into a racially and sexually charged public spectacle, at times bordering on the theater of the absurd. Spisak grew an Adolf Hitler-style mustache and carried a copy of Hitler's book "Mein Kampf." He said he was an agent of God in a war against blacks and Jews.

Spisak clearly loved the attention.

"When I walked in the courtroom and all these TV cameras were in there and all the bright lights were shining on me, that was the most exciting thing that ever happened to me in my life," he told a reporter. "It was like being Hollywood, you know. I couldn't resist the temptation to really ham it up. The whole town was interested in a bad guy, and I showed them a bad guy."

Center stage was Nugent, then the assistant county prosecutor and now a federal judge, who handled the Spisak case along with Patricia Cleary. Nugent and Spisak's attorney, Thomas Shaughnessy, were both hard-chargers. Nugent baited Spisak, calling him "Frankie," his feminine name. Shaughnessy repeatedly asked witnesses about his client, using half a dozen slang synonyms for the word "crazy."

The Spisak trial was a momentous undertaking for Nugent. The jury examined 240 exhibits of evidence and listened to 60 witnesses testify for the state. Judge James J. Sweeney ruled the defense didn't provide sufficient evidence to allow the jury to consider Spisak's plea of not guilty by reason of insanity.

"We showed that he knew right from wrong, and that he was able to refrain from committing the acts," Nugent said.

Brendan Sheehan sat through some of the trial. "You go to a trial like that to see the guy who shot your dad. You've got questions, and you want answers. Why would a person do something like that? And all I see is this squirrely punk. And worse than that, he seems to be enjoying the attention."

After the jury found Spisak guilty of all charges, Sweeney sentenced him to die in the electric chair. Spisak responded with a two-minute tirade about white supremacy, ending it with a vigorous "Heil Hitler" salute.

On July 21, 1983, Brendan's sister Catherine called from the courthouse to tell him the jury had recommended the death penalty.

"I remember getting that call and feeling a great sense of relief," Brendan said. "It was a demonstration that the justice system worked, and it helped put that long, ugly and painful chapter of my family's life behind us."

After the Spisak trial, Nugent, a Jesuit-trained former Marine, became a mentor and father figure for Sheehan.

"Nobody succeeds in this life without the good works and help of others," Nugent said. "Legendary prosecutor Charlie Laurie helped me out. I wanted to do the same for Brendan. Because he showed interest."

Sheehan graduated from St. Edward High School in 1985 and went on to Baldwin-Wallace College, where he double-majored in business administration and communication. He was president of his senior class in 1989.

Two years after the trial, Nugent ran for common pleas judge. Sheehan volunteered for Nugent in the campaign, helping him win the election in 1984. During college summers, Sheehan worked as a clerk in a law office. He was a "runner" at the firm, and his travels took him past Nugent's chambers daily.

When Sheehan expressed an interest in law school, Nugent recommended he work at the courthouse and attend law school at night. Brendan followed Nugent's advice and, with a letter of recommendation from the judge, found a position as scheduler. In 1991, Nugent needed a bailiff and hired Sheehan.

"I missed out on doing the things kids do with their dad," Sheehan said. "Playing catch, going to Browns games. But what I really missed was his advice about what to do with my life. Career advice."

"That's where Nugent was so great. For someone looking to be a lawyer, who could be better? Who would know more about showing a young person the ropes? I was really fortunate to know him and be his friend."

Sheehan passed the bar exam in 1994. The following year, Nugent was appointed a federal judge by President Clinton. Sheehan wanted a job in the prosecutor's office, but Stephanie Tubbs Jones wasn't hiring. Nugent brought him on as a law clerk.

"Researching and writing briefs made my head feel like it would explode," Sheehan said. "The training was great, but it was like law school times 10."

Sheehan made \$50,000 a year as Nugent's bailiff and \$80,000 a year as his law clerk, but what he really wanted to be was a prosecutor, even though assistant county prosecutors start at \$34,000.

After Bill Mason became Cuyahoga County prosecutor in 1999, he ran into Brendan Sheehan outside the Justice Center.

Sheehan immediately asked him for a job. And soon the boy who had sat through the trial of the man who murdered his father would be trying capital cases of his own.

Spisak lives on Death Row in Mansfield Correctional Institution. His petition for a writ of habeas corpus was recently denied by U.S. District Judge Solomon Oliver. Spisak and his attorneys argued ineffectiveness of counsel during his 1983 trial. The appeal will move to the U.S. 6th Circuit Court.

He arrived for an interview wearing a prison-issue white jumpsuit. His feet and hands were shackled. His gold-rimmed eyeglasses looked like those from 20-year-old trial photographs. He carried a stack of documents relating to his case and talked openly about his crimes.

"I'm very sorry for what I've done, and I have to say I'm ashamed of what happened," he said. "If I could talk to the families of my victims, I would tell them I'm very, very sorry. I never meant to hurt them. At the time when the crimes were committed, I didn't know what I was doing. My illness caused me to do those things. I would like those people to forgive me, but I don't know if they can."

Spisak said he has renounced his Nazi beliefs and insisted his criminal behavior was the result of frustration regarding his gender-identity issues.

"My lawyers didn't tell the jury that I suffered from a mental disorder. Transsexualism is a mental disorder. Gender dysphoria is a mental disorder. It's listed in the Diagnostic and Statistical Manual of Mental Disorders, which is the American Psychiatric Association's guidebook."

Spisak also said he has sorted out his problems.

"I think I've learned who I really am. For many years, I was confused. Other people always tried to mold me to go their way. I didn't have the freedom to be myself. Since I've been locked up, I've had to confront a lot of these things. I want hormones and surgery, absolutely. I just got a stronger sense of who I am now.

"I'm Frances Anne. That's who I am."

Spisak may have forever altered Brendan Sheehan's life and career. But criminals in Cuyahoga County are worse off for it. He tries twice the cases of the average assistant prosecutor and his conviction rate is better than 80 percent.

He is motivated by the murder of his father.

The affable, baby-faced lawyer drinks way too much coffee. Sometimes 10 cups a day. He'll go out and get a jumbo-size one after the kids go to bed. All that caffeine fuels a furious attention to detail. He gives his home phone number to witnesses and reporters. He returns all calls. He prides himself on being thorough, working every angle and reading every piece of paper. His witnesses show up. There is no mistaking his high-pitched voice and the energy behind it. What Sheehan lacks in courtroom presence he makes up for with shoe leather and sweat. It's how his dad did it.

His persistence was never more evident than in the case of the murder of roofer Robert Cutler, who was shot at close range three times in the head in Bay Village on Jan. 4, 2001. A suspect, Timothy Moulder, had been interviewed, but he had an alibi. The case was going nowhere until Sheehan discovered that Moulder had been indicted in the beating and robbery of Cutler the previous April, and that he had threatened to kill Cutler if he went to the police.

Further investigation by Sheehan turned up a videotape of Moulder at a Bay Village gas station when he said he was home sick. Phone records also put him at the murder scene. Moulder is currently serving life in prison.

Some of his colleagues gripe about Sheehan's showboat style and his flair for theatrics, like the time he brought an exotic dancer into a courtroom in an obscenity case against a bar owner. While Sheehan jokes, he can be a shameless self-promoter; he won't apologize for working hard. He knows what it's like to be a victim of crime. And it drives him.

"Prior to his job as a prosecutor, I wouldn't have told you that Brendan was a workaholic," said his wife, Michelle, an attorney and partner at Reminger & Reminger Co. LPA. "But he became one when he joined the prosecutor's office."

It's his way of honoring his dad, just as he did in the eulogy 21 years ago, which concluded:

In closing, then, my prayer is

That I may pass along

To my own children

As much nourishment of the soul, and

As much fulfillment of the heart

As he has given to Mom, the girls and me.

So as much as he loves his work, Sheehan knows what it's like to miss sharing time with a father; he says he plans to spend as much as he can with his two daughters and his son.

The son he named Timothy Sheehan.

To reach this Plain Dealer reporter:
mheaton@plained.com, 216-999-4569

© The Plain Dealer. All rights reserved. Reprinted with permission.