

Judges hear 1981 sexual assault appeal

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The Columbian

A "social-work sideshow" in the guise of expert testimony dominated the 1981 sexual assault trial of Amboy farmer Bert Claflin, a Vancouver attorney said Friday.

Steven Thayer, who defended Claflin, has appealed Claflin's conviction to the state Court of Appeals. He argued his case Friday, during one of the court's routine visits to this area.

The three-member panel made no decision on the appeal.

Claflin was convicted in December 1981 of two counts of rape, one count of assault, six counts of indecent liberties and one count of tampering with a witness. He was accused of raping or molesting three sisters, ages 13, 16 and 18, and their two cousins, ages 7 and 10.

He is serving a 55-year term in the state penitentiary.

Thayer told the judges that testimony from two so-called expert witnesses in Claflin's trial should not have been allowed. He questioned their status as experts. He also said some of their testimony was irrelevant and prejudicial.

The two witnesses were Sharon Krause, a Clark County sheriff's detective who specializes in sexual assault cases involving youngsters,

courts

and Lucy Berliner, a social worker who worked at Harborview Medical Center's sexual assault clinic in Seattle.

Thayer questioned whether Krause was an "expert." During her testimony, she stated that it was not unusual for a young victim to keep secret a sexual assault and not report it to authorities immediately.

This testimony was designed to counter Thayer's cross-examination of the victims, when he sought to establish that they might be lying because they did not report the alleged crimes, Jim Peters told the court. Peters was the deputy prosecutor who tried the case.

But Thayer said such testimony prejudiced the jury by bringing up the general topic of victims failing to report sexual crimes, instead of sticking to the question of whether Claflin attacked these children.

"We allowed the social-worker sideshow to take over the facts . . . to move from what happened in Bert's case with these girls to what happens in Seattle," Thayer said, referring to Berliner's testimony about a study of assault cases in Seattle.

He cited some recent court cases in which such testimony on broad issues of sexual assault has been found prejudicial.

Because this kind of case is a law enforcement and media priority at the moment, Thayer said, it is especially important to make sure trials are conducted fairly to protect the rights of the accused.

Peters countered by saying the court should reject all of Thayer's arguments. He said he needed expert testimony on victims because Thayer tried to make the jury accept the "myth" that victims would be likely to report any crime immediately.

Thayer "beat the question in (to the jury). By my count he asked it 42 times in the trial: 'Isn't it true you didn't report?'" Peters said.

He said Krause and Berliner were adequately qualified as experts and that their testimony was not prejudicial.

The appeals court may take months to issue a decision in the case.