

# Poem considered in convicted rapist's appeal

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VANCOUVER — The fate of a La Center man who has been convicted of rape may rest on a poem.

In a Washington Court of Appeals hearing in Vancouver Friday, the attorney for Bert David Claflin contended the prosecution made several trial errors, including the reading to the jurors of a poem written by an anonymous rape victim.

The judges took the appeal under consideration and will issue a decision later from their Tacoma office.

Claflin, 58, was convicted in December 1981 on 10 charges, including two counts of second-degree rape, one count of second-degree assault, five counts of indecent liberties, third-degree statutory rape and tampering with a witness. The case involved five victims ranging in age from 5 to 17 over a six-year period.

A mother of two of the victims also was found guilty of tampering with witnesses. She said she believed Claflin more truthful than her own daughters.

After the trials, some of the witnesses attempted to recant their testimony.

In Friday's hearing, defense attorney Steven W. Thayer complained to the three court of appeals judges about the poem, which discussed the feelings of a rape victim not related to this case, and use of a researcher to suggest that Claflin, as a close friend of some of the victims, was in a group statistically more apt to commit sex crimes.

The three judges voiced concern about the poem Peters had read. "The moment this court approves the reading of this poem or any poem in any crime, every prosecutor in the state will pick up poems," said Judge Ha-

rold J. Petrie.

After Thayer told of objecting before the poem's reading and of lodging a mistrial motion immediately afterward, the judges asked if that was all he had done. Thayer paused, then said, "I came back with a story about the Spanish Inquisition." After the hearing, he said he remembered the story actually was about the Salem witch-hunts.

Thayer suggested the case was "overtried" and asked that all charges be reversed. He said deputy prosecutor James W. Peters presented two witnesses to the jury "under the guise of expert testimony." Thayer said the court never checked on the qualifications of a sheriff's deputy and a sexual abuse researcher.

He said the testimony was an effort to explain away delays in reporting the offenses. Thayer said there were delays and the victims "could have made it up." He also complained that much of the statistical testimony about sex abuse was from a study not yet published and not yet analyzed by other experts in the field.

Thayer said this type of case has become a police and media priority. "It's difficult enough for an accused to get a fair trial. . . . God help a man who is accused falsely."

Peters told the judges that Thayer was raising issues not mentioned in his appeal and the arguments should be rejected. Peters said he brought in the witnesses to discuss delays in reporting rapes after the defense questioned the victims 42 times about a delay. He questioned whether it meant the victims were not telling the truth.

The experts were to "take the sting out of the myth that abused children report incidents right away," Peters said.