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Coe commitment trial flawed, attorney says

Court takes case under advisement

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OLYMPIA – Jurors who decided that rapist Kevin Coe was a sexual predator relied too heavily on cases that were never proven in a criminal trial, the state Supreme Court was told Tuesday.

An attorney for Coe asked that his client's commitment as a sexual predator be overturned because jurors may have given too much credence to information about cases that linked Coe to 20 rapes he was never convicted of, based on a pattern of behavior, or "signature" of the rapist, that psychiatrists gleaned from a computer database.

"It's pretty tough to cross-examine a database," said Casey Grannis, Coe's attorney.

But Malcolm Ross, a deputy attorney general, argued Coe got a fair trial, with five weeks in front of the jury and the opportunity to cross-examine the experts who drew conclusions from that database. "He had extraordinary due process," Ross said.

The justices seemed to be wrestling with how much weight a judge and jury should give to information in the database that included some common details, like the fact the rapist was white, male and removed his own clothes, and some bizarre details, like the fact that the rapist was initially violent but later tried to treat his victim like they were on a date and talk to her like they were having consensual sex.

Together, those details made up a signature that could be tied to Coe, psychiatric experts for the state contended.

Coe was initially charged with a series of rapes on or near Spokane's South Hill in 1980-'81, but all but one of his convictions were overturned after two trials and two appeals that went to the Supreme Court. Some were overturned because police improperly used evidence obtained from hypnotizing victims. Coe was eventually sentenced to 25 years in prison for the one rape conviction that stood, and when he came up for release in 2006, the state moved to have him civilly committed to a program for sexual predators.

That required a new trial. Jurors ruled he was a sexual predator, and the trial court ordered him confined indefinitely at a special facility on McNeil Island. An appeals court upheld his confinement, and he's asking the Supreme Court for a new trial.

Among the rape victims interviewed by psychiatrists were some women who couldn't identify Coe, others who identified someone else and still others who had been hypnotized. Some testified at the commitment trial, but others didn't, and Coe contends the psychiatric experts shouldn't have been allowed to rely on statements from victims who weren't cross-examined.

Some of the evidence couldn't have been used in a criminal trial, and Justice Charlie Wiggins asked Ross if he thought the women who didn't testify could have won a personal injury claim against Coe in civil court.

"I don't believe so," Ross said.

"But that's good enough to lock Kevin Coe up for the rest of his life?" Wiggins asked.

"That's an unusual question," Ross replied.

"This is an unusual case," Wiggins countered.

The court took the case under advisement for a later ruling.