

The Daily Olympian, Tuesday, February 17, 1976

DEFENDANT'S SECOND DAY ON STAND

Cosden Denies Rape Charge

William E. Cosden Jr., in his second day of testimony in his first degree rape trial, today said he didn't have sexual relations with the alleged victim although he had sex in mind when she got into his truck.

He told the Thurston County Superior Court jury he backed off from the woman inside the truck when he couldn't "perform" after they both undressed.

Cosden, 2710 114th Ave. SW, is accused of kidnapping and sexually assaulting Beverly J. Fredericks Nov. 30 near Maytown. His trial began a week ago last Monday.

The 29-year old defendant said the woman almost ran him down in her truck when she pulled into the Lathrop Road Restover Truck Stop, where he was working on the night of the alleged incident. He tes-

tified she waved to him and flirted with him even though he had never seen her before. Her actions attracted her to him, he said.

Later she got into his truck and wanted to go someplace, he said. This idea appealed to him because he "wanted to get to know her better." At the time he admitted he was having problems with his marriage and had sex on his mind.

When she suggested they go to her place, he rejected the proposal because he was married, he said.

When Strophy asked him why he didn't suggest a motel, Cosden hesitated and said, "It sounded lewd."

The trial is expected to continue with defense testimony tomorrow. The jury is expected to begin deliberations tomorrow afternoon.

Defendant Will Resume Stand in Rape Trial 2/11/76

William E. Cosden Jr., accused of striking and raping a Thurston County woman last November, will resume the witness stand this week to face prosecution questions after denying he had intercourse with the woman.

Cosden, 29, testified Friday he was with the 24-year-old woman in the nude in the cab of his pickup truck, but denied he could "perform" the sexual act as alleged because he was thinking of his wife and child. He admitted he was a "fool" for being with the woman, but said he did nothing more.

He is charged with first-degree rape of Beverly J. Frederick's Nov. 30 near Maytown. Sheriff's deputies arrested him the same day, after the complaining witness reported the alleged incident.

The trial resumes Tuesday, after another court holiday Monday, and the jury is expected to begin deliberation sometime that night.

The trial began last Monday.

The defendant gave testimony which differed greatly with that of the woman who testified last week. He said that at the truck stop where he was working,

the woman waved and acted as if she knew him. He said she later accepted his offer to follow her pickup truck to her house in his pickup, because of the adverse weather conditions.

She had told the jury that he had initiated the conversation and offered to follow her, but that she didn't accept the assistance.

Cosden, who lives at 2710 114th Way SW, said the woman stopped her vehicle in the middle of the intersection of Case Road and 101st Avenue. Then she backed it up into the wrong lane of 101st Avenue and got into his truck to talk, he testified.

She said his truck had slid into a ditch near the intersection and she returned to give help.

In his testimony, he said she sat in the middle of the seat, wrapped her arms around his right arm and wanted him to drive to a place "where we can be alone." He said she talked about her divorced husband and why he had left her.

On questioning by defense attorney Don Taylor, the defendant said he didn't threaten the woman. He denied striking her at any time.

The woman testified that after she helped the defendant get his truck out of the ditch, he struck her from behind and further threatened her with a rubber mallet. She said she agreed "to do anything" if he wouldn't hurt her anymore.

Once in his truck enroute to Maytown, she said she tried to escape by jerking the steering wheel to force the vehicle out of control and by pulling the passenger door handle. She said he warned her not to do these things.

Under repeated questioning by Taylor, Cosden said the woman

made no attempts to get away and displayed no signs of wanting to leave his company. Cosden told the jury he would have driven the woman back to her truck if she had wanted.

He also denied threatening her with a gun hidden under the seat as she had testified. He said there was no weapon in the vehicle.

He said he drove to property he owns near Maytown and stopped the truck. As they were talking, she began unbuttoning her dress, he told the jury. While undressing she told him "This is just like playing strip poker." "I said I just can't," he explained, he told the alleged victim.

He denied that he raped her. "I felt like a damn fool," he said in response to another Taylor query about his feelings. He made further denials that he had discussed "Ted" or that he had grabbed the woman by her thighs.

According to the woman's version, he was the aggressor and

began unbuttoning her clothes.

She claimed he raped her twice. She said he later grabbed her neck and asked how she was going to account for her bruises.

In his testimony, Cosden said the complaining witness drove to his house Jan. 5 and appeared to be looking for him. After he saw her drive away, he telephoned Taylor to report the incident.

In other defense testimony, Dr. Tore Nielsen, Olympia, psychiatrist, said a "gentle" sexual act as described by the woman wasn't consistent with being in a state of fear.

He added that impotency caused by a man thinking of his wife and children was a common occurrence. He said the performance of two sexual acts in succession in cold weather in the cab of a truck was "highly unlikely." Seattle pathologist, Dr. Gale Wilson, told the jury that based on laboratory tests about 9 a.m. Nov. 30, intercourse hadn't taken place within 12 hours.

1ST DEGREE RAPE

Jury Finds Cosden Guilty

A Thurston County Superior Court jury last night convicted William E. Cosden Jr., 29, of raping a 24-year-old county woman last Nov. 30.

The jury stayed out about 6 1/2 hours before returning the verdict of first degree rape at the end of the six-day trial.

Cosden was in custody in county jail this morning. Judge Frank E. Baker last night ordered him held to await sentencing after pulling his property bond.

The conviction carries a mandatory minimum sentence of three years in prison because of the use or threat of use of a deadly weapon or kidnap. The maximum prison term is 20 years to life.

Cosden was arrested Nov. 30, hours after the woman told sheriff's deputies she had been struck from behind and later sexually assaulted by a man named "Bill" in a pickup truck in a remote clearing near Maytown.

The defendant had testified he was with the woman the night of the incident, but denied that sexual intercourse took place. He said the woman had aroused his sexual interest and asked him to take her someplace where they could be alone.

Yesterday in closing arguments, Deputy Prosecutor George Darkenwald told the jurors the case came down to whether they believed the defendant or the woman. "He did it or he didn't," Darkenwald said.

He advised the jury to remember that the victim wasn't on trial.

According to the prosecutor, the "single most important piece of evidence" was the woman leaving her pickup truck partially on a country road the night of the incident, with the lights on and the engine running. He asked why a woman would leave her overcoat and purse in her truck in the middle of a road.

He said that despite the defendant's denial that intercourse occurred, lab tests showed sperm was present in the woman and on her underwear.

"If no intercourse took place, why would this woman cry rape?" Darkenwald queried.

Also important was testimony by a doctor and nurse who examined the woman and found bruises and red marks on her shoulders, right arm, right hand and on top of her head, the prosecutor said. These resulted from an assault, not a fall as claimed by the defendant, he said.

He characterized as "preposterous" Cosden's testimony the woman stopped her vehicle in the



WILLIAM E. COSDEN
Found Guilty

middle of Case Road in order to talk with him. Darkenwald asked why a woman Cosden had never met would do this.

The FBI identified hairs found in the defendant's truck as belonging to the woman. Darkenwald pointed out. He suggested that the defense contended at the start of the trial that the event didn't happen, but the FBI testimony forced the defendant to change his story.

A sheriff's officer testified he was surprised not to find any recognizable fingerprints when he examined the defendant's truck. Darkenwald hinted at the possibility the defendant may have wiped out the inside of the vehicle if he thought the victim would go to authorities.

He pointed to the defense contention that the woman's description of the intercourse as "gentle" wasn't consistent with a rape assault. Darkenwald asked the jury why the woman would use such a word if she were trying to "set him (Cosden) up for a rape charge."

He said physical injury to the victim isn't necessary in proving rape.

In his final statements to the jury, defense attorney Don Taylor noted, "We know the defendant had the opportunity, but you can't convict him on that."

Taylor said from a scientific viewpoint evidence didn't hold up. He explained the evidence showed a "reasonable doubt."

890

Mar. 16, 76 Day 0

COSDEN LABELED ONE OF COUNTY'S 'MOST DANGEROUS INDIVIDUALS'**Ten-Year Minimum Term Sought**

William E. Cosden, 23, a Vietnam war veteran who killed a Maryland woman and injured another, was sentenced to 48 years in prison for the rape of a Thurston County woman last fall.

In a sentencing hearing, Judge Judge Frank E. Baker recommended a minimum term of 10 years for a crime which carries a mandatory imprisonment of three years.

The judge also said he would "strongly urge" that Cosden undergo "intensive" psychiatric treatment in prison, with reports of his progress to be made to the court every six months. He also recommended the Board of Prison Terms and Parole notify the court and the county prosecutor's office upon Cosden's ultimate release.

It's expected Cosden's attorneys will appeal the case.

Cosden, 2710 114th Ave. S.W., was convicted Feb. 18 after a week-long jury trial in the first-degree rape of a 24-year-old woman last May 30.

She had testified he struck her from behind twice with a rubber mallet in the early morning hours on Case Road. Out of fear for her life, she agreed to accompany him to his property near Maytown where he raped her twice, she had said.

Yesterday Chief Criminal Deputy Prosecutor Rick Strophy urged life in prison for Cosden, while defense attorney Don Taylor recommended a 20-year maximum sentence. The conviction calls for a maximum of 20 years to life.

Strophy introduced St. Mary's County, Md., court records concerning the brutal slaying of a 21-year-old woman there in which Cosden was involved. Police found the woman in a shallow stream, savagely beaten and stabbed several times.

According to his father, Cosden came forward and gave information to Maryland police even though they had another man in jail on a charge involving the death.

A judge there found the defendant innocent of first-degree murder by reason of temporary insanity. The court committed Cosden to a mental institution, where he remained until May 1971 when he was released after he was determined to be mentally competent, Strophy said.

The deputy prosecutor said there was evidence of a "sexual assault" in the Maryland killing, a conclusion disputed by Cosden's father and Taylor.

Strophy said Cosden was "one of the most dangerous individuals the court may have had before it."

At one point during Strophy's presentation to the court, Cosden, gripped with anger, shouted, "You're a liar." Judge Baker rebuked him for the outburst and ordered him to be quiet.

Taylor suggested Cosden's activities resulted from emotional scars suffered during his Marine Corps tour in Vietnam, which included five months in an enemy prison. The attorney stressed the horrors of his client's experiences there where he received three purple hearts and a bronze star for wounds suffered.

Cosden received a medical discharge from the Marines in November 1967.

Taylor claimed the Maryland killing never would have surfaced if Cosden hadn't been "honest" in admitting to it. He said Cosden maintained his honesty in denying the Thurston County rape.

Judge Baker said the Cosden sentencing would serve as a signal to "other rapists in the county" that they can expect the same treatment.

The Voice Of The Capital

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Editor's Corner

Cause Of Justice Often Confusing

BY DEAN SHACKLETT

THE PROTECTION of an individual's right to a fair trial often seems to put a real strain on the cause of justice. Seems to me we just had an example of this in William E. Cosden Jr.'s trial here.

The 29-year-old was found guilty of rape by a jury of his peers which heard all of the good things in his background, but none of the bad.

Then, at the time of Cosden's sentencing, it was revealed his past might have been particularly relevant to his present problems. Rick Strophy, chief criminal deputy prosecutor, produced court records from Maryland concerning the brutal slaying there of a 21-year-old woman. Strophy said there was evidence of sexual assault in that case. Cosden was tried for that murder and found innocent by reason of temporary insanity.

The Maryland murder, the court was told, occurred in 1967. Cosden was held in a mental institution until May of 1971 when he was determined to be mentally competent and released. He moved to this area soon after.

Although this information all was known to Strophy before the trial, none of it could be introduced as evidence under our court rules.

My concern is this: Does such a rule go beyond protecting an individual's right to a fair trial and actually prejudice the consideration in his favor? It is easy to answer that this certainly didn't happen in the Cosden case but such a reply ignores other factors and begs the question.

Of course the Maryland incident is no prima facie evidence that Cosden might have committed rape here, but it certainly is evidence of what he was capable of at one time.

I believe our jurors are intelligent enough to make such a distinction. The lawyers and judges who draft our laws of evidence think otherwise. Is this why Justice always is depicted as being blindfolded when we create our courthouse statuary?

892

DAILY O 5-5-78

Cosden Appealing To High Court

An impressive gray booklet was making the rounds in the Thurston County Prosecutor's Office this morning, in the hands of Olympia Attorney Kip Stilz.

It was a formal petition for a writ of certiorari to the Supreme Court of the United States — on behalf of William E. Cosden Jr., 31, whose address has been Washington State Penitentiary, Walla Walla, ever since he was convicted of first-degree rape in Thurston County Superior Court in March 1976.

Judge Frank Baker sentenced Cosden to 48 years in prison, recommending a minimum term of 10 years. Deputy Prosecutor Rick Strophy had urged life imprisonment.

Represented by the firm of Fristoe, Taylor and Schultz, Cosden took his case to the Washington Appellate Court where his conviction was upheld. He now is preparing to take it to the nation's highest court. Stilz said this morning Cosden's appeal will be based upon the same grounds he used in the earlier appeal: that he had not been allowed to introduce evidence indicating that the 24-year-old woman he was accused of raping had engaged in sexual activity four days before the rape.

Cosden spent four years in a mental institution in the late '60s after murdering a young woman in Maryland. He was released from the institution in May 1971, declared to be mentally competent.

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