

The Sun

**Officer's appeal of rape conviction denied**

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The Court of Special Appeals upheld yesterday the rape conviction of an Anne Arundel County police officer who attacked a woman while he was a security guard at Parole Plaza.

The court rejected Michael Dennis Feeney's argument that his victim has a "history of mental problems" and that he should have been allowed to use her mental health records in his defense.

Feeney, who is serving a 13-year sentence for second-degree rape, assault with intent to rape and battery, said his right to defend himself outweighed the confidentiality of his victim's medical records.

"We're not happy," said Feeney's lawyer, T. Joseph Touhey, who described the case as a "he said, she said" situation that turned on the victim's credibility.

"There was no physical or scientific evidence on her part," he said. "She was a very reluctant witness initially. There was no question she made prior inconsistent statements. But the jury solved the credibility issue in her favor."

Feeney was a county police officer working part time at the shopping center when the rape occurred in December 1995.

He said he went into the Rite-Aid to buy aspirin for back pain and that the woman, a cashier, offered a back rub. He invited her to the mall security office after her shift to take her up on her massage offer, and when she arrived, they had consensual sex, he said.

The woman testified that Feeney offered her a ride home and that she accepted because she had a sprained ankle. When she followed him into the office, she said, he started to pace and talk about problems with his wife.

When she looked up, the woman said, Feeney was exposing himself. "There are things you can do to live and things you can do to die," Feeney said before raping her, she testified. They then dressed and he drove her home, she said.

She said she did not report the incident because Feeney was a police officer. The victim told a friend of the rape in January 1996 because she thought she might be pregnant or might have contracted acquired immune deficiency syndrome.

The friend called police, and Feeney was indicted on charges of first- and second-degree rape, sodomy, perverted practices, assault with intent to rape, battery and sexual offenses, among other charges.

The trial was moved to Howard County, where Feeney asked for all of the victim's medical records to show that she was "a pathological liar and a sociopath."

Howard County Circuit Judge Diane O. Leasure rejected that request, allowing Feeney only medical records that pertained to the attack.

On the stand, the woman said her father had sexually abused her, that she had misused prescription drugs and that she had attempted suicide. She also testified that she was homeless and was taking prescription drugs at the time of the rape.

The jury convicted Feeney in April last year. He was sentenced to 13 years, with three years suspended.

Touhey said he had not seen the appeals court ruling yesterday and would not decide whether to appeal until he had read it.

Prosecutors could not be reached for comment on the opinion, and county police declined to comment.