

Judges set to review entire trial evidence

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By Bret Christian

Three judges will be asked to rule that the jury in the Walsham case got it wrong, the Court of Criminal Appeal was told on Monday.

Lawyers for three men now serving life sentences for murder were given leave to appeal on their main ground -- that the verdict of the jury in April this year was unsafe and unsatisfactory.

If the lawyers succeed with this argument, the men would be released from jail and there would be no retrial.

At a pre-trial hearing, Chief Justice Wayne Martin said the men were convicted after a complex 10-week trial.

The summing-up for the jury by the trial judge, Justice Eric Heenan, occupied 170 pages of transcript, he said.

A number of the 18 grounds of appeal related to alleged errors in the summing-up.

Justice Martin said that it followed that the entire trial evidence would be reviewed by the three appeal judges.

He said many of the other grounds of appeal would be incorporated in the first "unsafe" ground.

He gave the men leave to appeal on 10 grounds, and referred eight others to the three other judges who will hear the appeal in June next year.

Reference was made in court to a letter from a juror at the trial, which forms one of the grounds of appeal.

During the trial, a juror wrote to the judge and was discharged.

Defence lawyers say in the appeal papers, that they should have been made aware of the contents of the letter at the time.

They allege that the discharged juror was of the opinion that the three men were innocent, but all the others thought they were guilty.

At that stage the defence case had just begun.

Lawyers for the convicted men say remaining jury members should have been discharged, or questioned in open court to see whether they could reach a true verdict in accordance with the evidence.

The prosecution did not oppose this ground of appeal, but asked for and was given a copy of the juror's letter.

He dismissed one ground of appeal entirely.