

## South Dakota

## Inmate Denied Quick Execution

BY CHET BROKAW  
Associated Press

PIERRE — The South Dakota Supreme Court on Thursday denied a convicted murderer's request for a quick execution in the slaying of a prison guard, ruling that the high court must first complete its mandatory review of the sentence, a process that can take up to two years.

Eric Robert and another inmate pleaded guilty to killing guard Ronald Johnson during a failed attempt to escape last April from the South Dakota State Penitentiary, where Robert was serving an 80-year sentence for kidnapping. Robert asked for the death penalty and a circuit judge complied, scheduling the execution for the week of May 13.

Robert, 49, didn't appeal his conviction or sentence, but the state Supreme Court postponed the execution in February to allow it more time to conduct its mandatory review to determine if the death sentence was proper.

Robert asked the court to reconsider, contending that the justices lacked the legal authority to delay the execution or schedule arguments in the review of his sentence. But the justices ruled unanimously that it wouldn't make sense to execute Robert before they had determined whether it was proper to do so.

Robert's attorney, Mark Kadi of Sioux Falls, said his client disagrees with the Supreme Court's position that a meaningful review of the sentence can't be done quickly, particularly when Robert and the state agree he should be

executed. He said he thinks a thorough review could be completed within six to eight months.

Attorney General Marty Jackley said his office expected the ruling and is focused on submitting written briefs arguing that the death penalty is proper in the case.

"The focus remains on the merits of the appeal, showing there is that necessary aggravating factor and this is an appropriate sentence under all the facts and circumstances," Jackley said.

The high court noted that state law requires it to determine whether a death sentence is valid, even in cases where the convict hasn't filed a traditional appeal. The law requires the justices to determine whether the sentence was imposed under passion, prejudice or another improper factor; whether evidence supports the trial judge's finding of an aggravating circumstance

justifying the death penalty; and whether the sentence is excessive or disproportionate compared to similar cases.

If Robert were killed without the required review, the execution could be found to have been unconstitutional under death penalty guidelines established by the U.S. Supreme Court, the justices said.

"Without the authority to prevent execution of the defendant, this court could not delay the execution to allow appropriate time to conduct that review," Chief Justice David E. Gilbertson wrote for the court.

Thursday marked the anniversary of Johnson's killing, which happened on his 63rd birthday, and officials planned to name a training academy at the penitentiary after Johnson during a ceremony later in the day.

The other inmate who tried to escape, 49-year-old Rodney

Berget, was also sentenced to death after pleading guilty, but is adhering to the traditional appeals process for condemned inmates. A third inmate was given a life sentence for providing the plastic wrap and pipe used in the slaying.

Johnson was working alone the morning of his death in a part of the prison where inmates work on upholstery, signs, custom furniture and other projects. Prosecutors said after the two inmates killed Johnson by hitting him with a pipe and wrapping his head in plastic wrap, Robert put on Johnson's uniform and tried to move a large box toward the prison gate with Berget inside. The inmates were apprehended before leaving the prison.

The prison made more than a dozen procedural changes less than a month after Johnson's killing to improve security and safety.

## Omaha Man Pleads Guilty In Pizza Man's Death

OMAHA, Neb. (AP) — An Omaha man has pleaded guilty to a charge of conspiracy to commit robbery in the death of a pizza deliveryman. Larry Fountain pleaded guilty on Thursday in Douglas County District Court. He faces up to 50 years in prison when he's sentenced in July.

Christopher Taylor was stabbed to death in 2010. Fountain's attorney says Fountain made the mistake of letting others use his cellphone to order a pizza, luring Taylor to a vacant apartment.

Dontavis McClain was convicted of first-degree murder in Taylor's death and was sentenced to life in prison. Bryton Gibbs pleaded guilty to second-degree murder and is serving a 100-year sentence. A third man, Marcus Robinson, pleaded guilty to conspiracy to commit robbery and will be sentenced in June.

## Thune, Noem Filing Pine Beetle Bill

PIERRE, S.D. (AP) — The U.S. Forest Service would be able to move faster to fight the mountain pine beetle infestation in western South Dakota's Black Hills and other states under a measure being introduced in Congress, two lawmakers said Thursday.

U.S. Sen. John Thune, R-S.D., and Rep. Kristi Noem, R-S.D., said the measure would require the U.S. agriculture secretary to respond to fire hazards caused by beetle infestations, disease and drought in national forests. The agriculture secretary would have to designate at least one national forest in each state for the expedited work, they said.

Under the bill, the Forest Service could declare emergencies in some areas to speed up the environmental review process and begin cutting or spraying trees, or conducting proscribed burns, Thune said. The measure also would increase the size of areas where the expedited treatment could take place from the current 200 acres to a new maximum limit of 10,000 acres.

## Training Center Named For Slain Guard

BY DIRK LAMMERS  
Associated Press

SIoux FALLS — Renaming a South Dakota prison's training academy after a guard who was killed during a botched escape attempt a year ago is a fitting tribute to the officer, state corrections officials said Thursday.

Corrections Secretary Dennis Kaemingk said Ronald Johnson was a mentor to young officers and the center at the South Dakota State Penitentiary in Sioux Falls provides training to new recruits and other staff so they can perform their jobs safely.

"I'm sure that R.J. spent most days with younger, less-experienced correctional officers and helped guide them in their development," Kaemingk said during a dedication ceremony at the prison.

Thursday marked the one-year anniversary of Johnson's death. The guard was working alone the morning of April 12, 2011, which was also his 63rd birthday. He was in a part of the South Dakota State Penitentiary where inmates work on upholstery, signs, custom furniture and other projects.

Prosecutors say inmates Rodney Berget and Eric Robert killed Johnson by hitting him with a pipe and wrapping his head in plastic wrap. Robert put on Johnson's uniform and tried to move a large box toward the prison gate with Berget inside, but the two were caught before leaving the prison.

Berget and Robert pleaded guilty and were sentenced to death. Another inmate, Michael Nordman, was given a life sentence for providing the plastic wrap and pipe.

The South Dakota Supreme Court on Thursday denied Robert's request for a quick execution, ruling that the high court must first complete its mandatory review of the sentence, a process that can take up to two years. Robert didn't appeal his conviction or sentence, but the state Supreme Court postponed the execution in February so it could have more time to conduct a review to determine if the death sentence was proper.

At the dedication ceremony, Johnson's widow, Lynette, sat in the front row with her son and grandchildren. They joined a crowd of more than 200 people in a packed room on the second floor of the building, now named the Senior Corrections Officer Ronald "R.J." Johnson Training Academy.

The center's interior underwent a recent upgrade, and a new sign and flowers were added to the exterior. Corrections staff members have held fundraisers and accepted donations to pay for the building improvements.

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