

S.D. High Court Upholds Briley Piper Death Penalty

BY CHET BROKAW
Associated Press

PIERRE — The South Dakota Supreme Court on Thursday upheld an Alaska man's death sentence in the 2000 torture and killing of a Spearfish man who begged for mercy, noting the defendant bragged about the slaying.

The high court also unanimously rejected Briley Piper's request to withdraw his guilty plea in the killing of 19-year-old Chester Allan Poage. Piper's appeal lawyer did not immediately return a call seeking comment.

Piper, now 33, admitted his role in Poage's killing and faced a judge for his sentencing in 2001 on the advice of his lawyers who thought a jury was more likely to sentence him to death. The judge ordered the death penalty.

Piper appealed, and the state Supreme Court in 2009 overturned his death sentence by ruling that a jury, not a judge, should decide his fate. A jury then sen-

tenced Piper to death in 2011.

An accomplice, Elijah Page, pleaded guilty and was executed in the death. A third man, Darrell Hoadley, was sentenced to life in prison without the possibility of parole.

Piper filed another appeal, arguing that his death sentence was disproportionate to those in similar cases, particularly since Hoadley got a life sentence. The Supreme Court on Thursday rejected that argument.

The high court noted that Piper took part in kicking and stabbing Poage, and forced the victim to drink a toxic liquid.

Piper, Page and Hoadley had been friends with Poage, but when the victim's family left on vacation the three decided to kidnap him and steal things from his mother's home. Prosecutors said they knocked Poage out and tied him up, beat and stabbed him, stripped him and tried to drown him by pushing him into a stream where they stepped on his neck. They ended his life by dropping basketball-sized rocks on his head. Poage's body

was found several weeks later in the stream.

"Throughout the evening, Poage begged for his life and repeatedly asked the men why they were hurting him," Justice Lori Wilbur wrote for the court.

"In contrast to his statements of remorse at this sentencing hearing, Piper bragged when he told his friends and cellmate about the events of the evening," Wilbur wrote.

The Supreme Court said its 2009 decision returning the case to a lower court for a new sentencing hearing did not allow Piper to raise the issue of withdrawing his guilty plea.

"Allan Poage's family has waited almost 14 years in their search for justice. Affirming the legality of Piper's conviction puts our criminal justice system a significant step closer to carrying out the jury's sentence," South Dakota Attorney General Marty Jackley said in a statement.

Jackley noted that Piper can file further appeals in state and federal courts.

Missouri Rape Case

Accused Man Pleads To Lesser Charge

BY BILL DRAPER
Associated Press

MARYVILLE, Mo. — Two years and a day after a northwest Missouri high school freshman said she was raped by an older schoolmate at a party, the girl and her mother said they are satisfied that her assailant has been held accountable for his actions.

While the misdemeanor child endangerment charge to which Matthew Barnett, 19, pleaded guilty Thursday fell well short of the felony sexual assault count they thought he deserved, Daisy Coleman and her mother, Melinda Coleman, said they're now hoping for closure after two extremely painful years.

"I am ready to move forward," Daisy Coleman, now 16, said in a statement provided by special prosecutor Jean Peters Baker. "To all those who supported me, I promise that what happened on January 8, 2012, will not define me forever."

Barnett's plea agreement, accepted Thursday by Nodaway County Associate Circuit Judge Glen Dietrich, means he won't have to spend time in jail nor face trial for sexual assault. It also means Daisy — who has spoken extensively



DAVID EULITT/KANSAS CITY STAR/MCT
Matthew Barnett, center, walks into the courthouse in Maryville, Mo., on Thursday, Jan. 9, 2013, with his legal counsel David Bell, left, and J.R. Hobbs. The 19-year-old Nodaway County man pleaded guilty today to misdemeanor child endangerment, apologizing to his then-14-year-old victim for his actions after a January 2012 house party.

with the media about her experience, especially since *The Kansas City Star* detailed her claims in a lengthy story in October following a seven-month investigation — won't have to testify in court and be grilled by defense attorneys.

Baker, the Jackson County

prosecutor, was brought in from Kansas City to reopen the case amid criticism that Nodaway County prosecutor Robert Rice wasn't doing enough when he dismissed a felony charge against Barnett and instead pursued only a misdemeanor child endanger-

ment charge against the Maryville native. Melinda Coleman alleged that Rice's decision to drop the case was politically motivated — Barnett's grandfather was a four-term Missouri state representative who was a state trooper for 32 years.

Top Cancer Researcher Moves From Sanford To Avera Health Network

SIOUX FALLS (AP) — A researcher that Dakotas-based Sanford Health hired to be the point man in an effort to find a cure for breast cancer has moved to the competing Avera Health network.

Brian Leyland-Jones and 10 of his Sanford colleagues moved to Avera on Jan. 2, saying Avera is a better fit for the team, Leyland-Jones told the *Argus Leader*.

"We felt very attracted to work with an organization that holds Christian values as the core of its practice," he said. "From a scientific viewpoint, they have the Avera Institute of Human Genetics."

Leyland-Jones is not critical of his previous employer.

"Sanford Health has great doctors. They've got great researchers," he said. "I actually miss the clinical interaction with the doctors there."

Leyland-Jones, 64, is a British-born scientist who had worked in London, New York, Montreal and Atlanta. In 2012, he cited Sanford CEO Kelby Krabbenhoft's views on research and the financial support of Sioux Falls philanthropist T. Denny Sanford as reasons for moving to Sioux Falls.

"Denny is a remarkable man, when you think of what Denny has done for this community. They're a great team of people," Leyland-Jones said this week. "This is just a better fit for us."

Sanford Health in 2011 announced a \$100 million effort to find a cure for breast cancer, thanks to a donation from T. Denny Sanford. Officials plan to break ground this year on a

multimillion-dollar breast cancer facility in Sioux Falls, S.D., to bring the initiative under one roof. Sanford also plans to expand the Roger Maris Cancer Center in Fargo, N.D., by 2017.

Cindy Morrison, executive vice president of marketing at Sanford, said Sanford's work on breast cancer continues uninterrupted. The health network has not commented on the circumstances of Leyland-Jones' departure.

"It became apparent that we were moving in different directions, resulting in the change," Morrison said.

Leyland-Jones said he wishes Sanford and Avera could work together.

"At previous places that I've worked, I haven't seen this kind of competition between institutions," he said. "I saw Avera patients when I was at Sanford. I would be thrilled to see Sanford patients over here. I think the more we share the ideas and treatments together ... the better it would be for all of us."

Morrison said in her statement that "Sanford already works collaboratively with a variety of regional and national research organizations, and it is too soon to know where that path might lead."

David Kapaska, regional president and CEO at Avera McKennan hospital in Sioux Falls, said competition has advantages and disadvantages.

"Competition keeps us all sharp. On the other hand ... we're in a smaller community compared to Chicago or Kansas City, and competition can almost get personal," he said.

Solution For Flooded-Lands Access Remains Evasive

BY BOB MERCER
State Capitol Bureau

FORT PIERRE — The state Game, Fish and Parks Department is in the middle of negotiations between landowners and sportsmen over public access to water over flooded private lands, but GFP won't be introducing any legislation on the issue this year, several of the department's top officials said Thursday.

The various sides have gone through 10 revised versions of proposals in recent weeks, according to Tony Leif, director for the state Wildlife Division. He briefed members of the state Game, Fish and Parks Commission on the latest round of what's been an unresolved legal impasse for more than a decade.

Leif said they are now working on a concept that would allow landowners to post no-trespassing signs on any water body smaller than 40 acres that is over private land, even if there is public access such as a roadway along it.

The 40 acres is based on the directions given to the original surveyors of Dakota Territory in 1868.

Surveyors were told that water bodies 40 acres and larger were to be designated as meandered — meaning they were permanent with defined boundaries — while the surveyors were instructed to go straight through waters smaller than 40 acres.

Leif described the 40 acre designation as "a definable measure" that could be used in the current deadlock.

He said the latest proposal for flooded private lands would prohibit the public from wading, walking or standing on private ground under water.

The question of ice remains unresolved. "That's certainly going to be a point of great discussion when we get to legislative session," Leif said.

Game, Fish and Parks Secretary Jeff Vonk said the proposal would allow landowners to petition the commission for

safety buffer zones on larger waters that have public access.

The Legislature took up the issue last year but didn't reach a resolution. Pushing for a settlement is Sen. Corey Brown, R-Gettysburg, on behalf of landowners. Resisting the loss of any access are members of the South Dakota Wildlife Federation.

Leif said any 2014 proposal will need to be sponsored by an individual lawmaker. "We don't have any intentions of introducing the legislation," he said.

Vonk said the legislation "potentially could evolve" to a governor-backed proposal but "more likely" will come from legislators. He said nobody seems to support the current version.

"It's still a quickly moving target," Vonk said.

Bill Would Require School Tornado Drills

LINCOLN, Neb. (AP) — Nebraska schools would have to conduct at least three tornado drills a year and create a response plan for when sirens are sounded, under a bill introduced Thursday in the Legislature.

Many schools already have tornado-response plans but have expressed concerns about preparedness, said the bill's sponsor, Sen. John Murante of Gretna. He said the proposal was inspired by a group of students in his district working on a school project.

"We know that the school season ends as the tornado season comes upon us," Murante said. "We just need to make sure that our kids and our schools are prepared."

Nebraska requires monthly fire drills for all students, faculty and staff in the state's K-12 schools but has no such rules for tornadoes. Many of the drills are handled locally, although the Nebraska Emergency Management Agency notifies some districts about its yearly exercises, spokeswoman Jodie Fawl said.

The bill would require schools to post routes to tornado shelters and practice moving students in an orderly fashion.

Gretna Public Schools conduct at least two tornado drills a year in addition to regular fire- and bus-evacuation exercises, said Superintendent Kevin Riley. Riley said the repetition helps train students to react in an orderly fashion. The drills do take students away from class time, he said, but Riley said the drills were worth it.

"It's done so often that the kids can do it in their sleep," he said. "But that's how you want it. When these types of things happen, you rely on your training. It has to be second nature. It's one of those things that keeps an administrator up at night — are we prepared?"

The Norris School District in Firth, just south of Lincoln, had a close call nearly a decade ago when a 2.5-mile-wide tornado ripped through town and severely damaged several school buildings. The May 2004 tornado struck on a Saturday afternoon and caused millions of dollars in damage. Rebuilding took more than 20 months and cost more than \$35 million.

S.D. Youth Treatment Center Is Closing

CHAMBERLAIN (AP) — A treatment center for troubled youth in the southeastern South Dakota city of Chamberlain is closing.

Florida-based Youth Services International Inc. last week told the nearly 40 staff members at the Chamberlain Academy that it would be shut down. *The Daily Republic* reported. The specific date depends on how long it takes to move youth into other facilities.

"A lot of them will need ongoing services, and we are going to make sure they get those proper services," Regional Vice President T.J. Mauer said. "We will do whatever it takes to give these kids proper placement."

Mauer declined to give reasons for the closure. He said staff will have an opportunity to transfer within the company, but the Chamberlain Academy is the only Youth Services International facility operating in South Dakota. The company shut down a youth center in Springfield two years ago.

The residential facility in Chamberlain is licensed to house 40 teenage boys and girls. It has housed an average of only about half that during the past year, according to Mauer. The company has no immediate plans for the building, he said.

Mayer Doug Nelson said the city hopes to find another company to take over the center so it can continue operating.

"We're hoping like heck something happens," he said. "All we can say is we're working on it."

The academy has operated in Chamberlain for about a quarter century. Youth Services International has run it since 1995, directly employing about 30 people and contracting with another seven through the Chamberlain School District to provide educational services.

State: \$1.3M Spent At Farmers Markets

PIERRE (AP) — State officials say South Dakota's farmers markets are a small but growing part of the ag economy.

The Agriculture Department says sales topped \$1.3 million at the 60-plus markets in the state last year.

The department worked with 12 of the operations to determine gross sales, pricing of products and conduct a customer survey.

Markets in the study were open for 18 weeks on average during the growing season. Nearly half of all customers reported spending \$10 to \$20 on each trip, while 29 percent spent less than \$10 on each visit.

Fifty percent of customers bought fruits and vegetables at the market, 21 percent bought baked goods and 16 percent took home processed or prepared foods such as jelly, salsa or pot pies.

Ice Forces Nuclear Plant To Shut Down

OMAHA, Neb. (AP) — The Fort Calhoun nuclear power plant in eastern Nebraska has temporarily shut down due to ice buildup.

Omaha Public Power District spokesman Jeff Hanson said the plant went offline Thursday morning after sub-freezing temperatures caused ice buildup on one of six gates used to control water from the Missouri River. The buildup kept the gate from fully closing.

The plant was closed because all the gates must be functional in case of flooding. The Nuclear Regulatory Commission was notified about the situation early Thursday after workers noticed the buildup hours earlier.

Hanson says workers have since cleared the ice and they are manually working on the affected gate. Once the affected gate is closed, the other gates can do the work and the plant can be back in service.

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