

Neb. City's Immigration Law Legal

BY MARGERY A. BECK
Associated Press

OMAHA, Neb. — A federal appeals panel on Friday upheld an eastern Nebraska city's ban on renting to people who aren't in the U.S. legally, opening the door for the town of Fremont to begin enforcing its law and offering implications for other cities with similar ordinances.

Fremont voters handily approved a measure in 2010 that bans hiring or renting to people who can't prove they are in the country legally.

Last year, U.S. District Judge Laurie Smith Camp ruled that parts of the ordinance denying housing permits to those not in the country legally were discriminatory and interfere with federal law. But the city has been enforcing its requirement that businesses use federal E-verify software to check on potential employees.

On Friday, two judges of a three-member panel of the 8th U.S. Circuit Court of Appeals rejected that reasoning, leading the majority to reverse the ruling and vacate the lower court's injunction against that part of the ordinance.

Judge James Loken wrote that the plaintiffs failed to show the law was intended to discriminate against Latinos or that it intrudes on federal law.

Lawyers for the plaintiffs said they will confer with their clients before determining whether to ask the full 8th Circuit to review to the case.

The ruling appears counter to decisions in other courts on similar local laws, said Aaron Siebert-Lera, an attorney with the Mexican American Legal Defense and Educational Fund who represented several U.S.-born Latino home renters and a Fremont landlord who

challenged the ordinance.

Siebert-Lera noted that two other federal appeals courts ruled against the communities of Farmers Branch, Texas and Hazelton, Pa., which have similar laws targeting landlords and employers to dissuade them from renting to or hiring people in the country illegally. Both cities have appeals pending before the full federal circuit courts.

"You've got the U.S. Senate passing sweeping immigration reform. You've got this huge, nationwide change going on," he said. "Then you have a decision like this coming out."

The American Civil Liberties Union, which also sued over Fremont's ordinance, bashed the 8th Circuit opinion.

"The court majority failed to recognize that Fremont's attempt to exclude undocumented immigrants from the city's borders is not only un-American, it's unconstitutional," said Jennifer Chang Newell, an attorney for the ACLU's Immigrants' Rights Project.

Eighth Circuit Judge Steven Colloton agreed with the reversal and vacating of the injunction, but said the plaintiffs lacked standing in the case, meaning they did not show how they had been or could be harmed by Fremont's law.

Siebert-Lera took issue with that opinion, noting that one of the plaintiffs showed she was forced to buy a mobile home, because she could not find anyone who would rent to in Fremont.

In a dissent, Judge Myron Bright agreed with the lower court that parts of the ordinance interfere with federal law.

"The ordinance will impose a distinct burden on undocumented persons by preventing them from renting housing in Fremont," Bright wrote. "This denial of rental housing is paramount to removal from the city. And, as the Supreme Court has made

clear, removal is entrusted exclusively to the federal government."

Kris Kobach, a Kansas attorney who represented Fremont and helped draft its ordinance and others around the country, lauded Friday's opinion and said it will have implications for both Farmers Branch and Hazelton as appeals courts look at their ordinances.

"And I think it has indirect implications for cities all across the country, and certainly cities in Nebraska, that may wish to take similar steps to stop the negative effects of illegal immigration," Kobach said.

Kobach said as soon as next week, the city will begin enforcing the part that requires all renters in the city to apply for an occupancy permit and denies those permits to people not legally in the country.

The ordinance stirred a whirlwind of controversy in June 2010, when roughly 57 percent of Fremont voters who turned up at the polls supported it. The measure catapulted the city into the national spotlight and spurred comparisons with Arizona and other cities embroiled in the debate over immigration regulations.

Fremont, about 35 miles northwest of Omaha, has seen its Hispanic population surge in the past two decades, largely due to the jobs available at two meatpacking plants just outside the city. Census data show the number of Hispanics soared from 165 in 1990 to 3,149 in 2010.

It's unknown how many immigrants not legally in the country may live in Fremont. According to census figures, 1,259 noncitizens live there, but that figure includes people living in the U.S. legally.

Fremont city officials declined to comment Friday, saying they wanted time to review the ruling.

Judge Upholds Sentence In Killing

FORT PIERRE (AP) — A South Dakota judge has upheld the 261-year prison sentence given to a Minnesota man who was 16 when he was involved in the 1996 kidnapping and murder of a Pierre taxicab driver.

Shawn Cameron Springer, who is now 34, pleaded guilty in 1996 to kidnapping for his role in the robbery and killing of Michael Hare.

Springer will be eligible for parole in 2029, but there is no guarantee he will be released then. He argued his 261-year prison sentence amounts to a life sentence in practice, so it would be struck down. He asked to be resentenced.

But after a brief hearing, Circuit Judge Kathleen Trandahl refused to set aside Springer's sentence, saying it was legal.

No Foul Play Suspected In Body Discovery

RAPID CITY (AP) — The Pennington County Sheriff's Office says no foul play is suspected in the discovery of badly decomposed human remains northwest of Pactola Reservoir near Kelly Gulch.

The remains had been spotted by an ATV driver on Tuesday, but searchers could not find the exact location that night. Crews returned on Wednesday morning and found the remains.

The sheriff's office said Friday that an autopsy found no signs of trauma but could not determine a cause of death.

Other evidence on scene led investigators to contact authorities in Seattle related to a person missing since June 2012. Dental records are being examined.

Disaster Declaration For 5 SD Counties

PIERRE (AP) — Gov. Dennis Daugaard says five South Dakota counties, including the Pine Ridge Indian Reservation, will receive federal financial help to recover from severe weather in late May.

The system produced a tornado, severe storms and flooding in Corson, Lawrence, Lincoln, Union and Bennett counties.

President Barack Obama signed a Presidential Disaster Declaration on Friday.

Preliminary estimates show at least \$1.4 million in damages to public and private nonprofit property. Costs included debris removal, repairs to roads, bridges and culverts and tornado damage to tribal homes in the Bennett County community of Allen on Pine Ridge.

Gov. Dennis Daugaard says the Standing Rock Indian Reservation submitted its own request for a disaster declaration with an estimated damage of \$1.2 million. That request was approved on Tuesday.

Nebraska

Officials Suspend Inmate Driver Program

LINCOLN, Neb. (AP) — The Nebraska Department of Correctional Services has suspended a program that allows inmates to drive state-owned vans to shuttle other inmates to work-release sites, the agency announced Friday.

The suspension, which took effect Friday, follows Tuesday's fatal crash involving a prison van. Investigators have said the driver, 35-year-old inmate Jeremy

Dobbe, hit a minivan, killing its driver, 47-year-old Joyce Meeks.

"A careful and thorough review of the program is underway," the release said. "Department of Correctional Services staff will be used to transport inmates affected by this change. Further information will be available when the program review has been completed."

The department has said

its program allowing inmates to drive the vans has been in operation since 1985. Selection as a driver included a review of the inmate's driving record and criminal history, as well as weekly urine testing to check for drug use.

Online court records show Dobbe has an extensive criminal record, including several convictions for DUI and reckless driving. He is serving a five- to seven-year sentence

for possession of methamphetamine with intent to deliver, making terroristic threats and criminal mischief.

Department officials did not respond to questions Friday about how Dobbe was deemed eligible to be a driver, whether he remains hospitalized or whether he was tested for drug or alcohol use following Tuesday's crash.

Sidney Police Apologize To Man Officer Yelled At

SIDNEY, Neb. (AP) — Sidney police have apologized to a man who was yelled at by a profanity-spewing officer while the man was recording the officer at a Sidney crime scene.

Acting Chief Joseph Aikens declined to comment on the June 21 incident beyond what was contained in a news release Thursday. Aikens said Officer Scott Tobler acted "in an unprofessional and discourteous manner" and has been punished.

The incident was recorded by Stephen Bell and his wife and was placed

on YouTube. It had been viewed more than 34,000 times by Friday morning.

The recording shows Tobler accusing Bell of following officers around, saying he was a distraction.

"You are taking away from my duties right now," Tobler says in the recording. He grows angrier and yells at Bell: "Stop following us around! That's your last warning!"

Tobler then lets loose a string of obscenities and appears to fling Bell's driver's license and other vehicle documents at him.

Another officer, Curtis Hofrock, intervenes and leads Tobler away from Bell's vehicle.

Bell later tells Hofrock that he wants to press charges against Tobler. Hofrock takes down Bell's contact information and promises to forward Bell's complaint to Aikens, the acting police chief.

Bell has said he's been harassed by police since an allegation of child abuse against him was dropped. Court records say Bell was charged with felony intentional child abuse in late 2011. The case was dropped

at the request of Cheyenne County Attorney Paul Schaub, who said in a filing on Jan. 24 last year that the state "no longer maintains that there is sufficient admissible evidence to support a conviction."

Bell told The *Sidney Sun-Telegraph* that police began following him around that time.

"It's not illegal for me to do the same to them," he said.

Bell also said his wife's children were removed from her custody temporarily and that she's sued the city.

'The Beef State' Slogan Coming To Neb. License Plates?

NORTH PLATTE, Neb. (AP) — The Nebraska Cattlemen want to return the slogan "The Beef State" to some state license plates, celebrating an industry that officials say contributes billions of dollars to the state economy.

The organization said all state plates carried the slogan from 1956 to 1965.

"Our goal is to make Nebraska the beef epicenter of the world," said Pete McClymont, the organization's vice president of legislative affairs. "We have excellent producers, feedlots and feed. Those translate into the largest industry in the state. The sale of feeder and fat cattle contributes \$6 billion every year to Nebraska's

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The Nebraska Cattlemen's communications director, Ashley Nunnenkamp, said 2013 is the organization's 125th anniversary year. So, she said, "We thought it was a great time to release specialty plates to promote our state and our industry."

The Nebraska Cattlemen organization was formed in

1988 by a consolidation of the Nebraska Stock Growers Association, which was founded 1888; the Nebraska Livestock Feeders Association, founded 1970; and the Nebraska Feedlot Council, founded in 1987.

The idea of resurrecting the slogan was suggested five years ago by U.S. Sen. Deb Fischer, who was a state senator at the time. Her idea

wasn't carried through then, but the Nebraska Department of Motor Vehicles had some plates designed just in case.

The cattle organization and DMV worked on those designs, and three were selected for public voting, which ended Friday.

But before the specialty plates can be made available, state rules say, at least 500 applications for them must be submitted to the DMV.

That number shouldn't be a problem, said McClymont, citing the organization's membership of 3,000 and the statewide history of the slogan.

Judge Allows Teen Murder Suspect Psych Report

PIERRE (AP) — A judge has rejected a defense request to suppress the findings of a psychological evaluation of a Pierre teenager charged with killing a classmate.

Attorneys for Braiden McCahren, now 17, believe psychologists went too far in their examination, delving into events surrounding the Dec. 18 fatal shooting of 16-year-old Dalton Williams when the evaluation was supposed to determine only whether McCahren was a

danger to himself or the community. They believe McCahren's constitutional rights were violated.

Prosecutor Michael Moore disagreed, saying no limitations were placed on the evaluation.

McCahren is accused of killing Williams with a shotgun following an argument about a paintball game that also involved a third boy, McCahren, who was 16 years old at the time of the shooting, is being prosecuted in adult court. He has pleaded not

guilty to first-degree murder, attempted first-degree murder and alternate counts of aggravated assault.

Karl Scovel, a clinical psychologist who evaluated McCahren along with a colleague, testified during a Thursday hearing that she had to ask about the incident — what happened and how the patient felt while it happened — to fully develop an opinion about McCahren's risk of harming himself or others.

"All of those things are essential to understand a risk

assessment," she said.

Scovel said advised McCahren of his right to remain silent every time they met because of his lawyers' concerns and his status as a minor.

Judge John Brown ruled that the evaluation can be used during a September hearing on whether McCahren's case should be transferred from adult court to juvenile court.

Brown did not rule out suppressing individual statements from the report in the future.

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Farmers - Ranchers - Homeowners 2013 Pesticide Container Collections

The South Dakota Department of Agriculture and the Cooperative Extension Service have set the following dates and locations for the 2013 Pesticide container collections. All plastic containers up to and including 30-55 gallon drums, plastic minibulk/shuttles, and 30-55 gallon steel drums will all be accepted. All containers must be triple rinsed or pressure rinsed. Make plans to attend the collection nearest you and thank you for your turnout in the past.

Collection Schedule

Date	Time	Location	City
15-Jul	9:00 to 2:00	Nelson's Seed Service	Miller
16-Jul	9:00 to 1:00	Codington Co Weed & Pest Shop	Watertown
17-Jul	9:00 to 12:00	Clark Fire Hall	Clark
17-Jul	1:00 to 4:00	Spink Co Fairgrounds	Redfield
18-Jul	8:00 to 12:00	SD Wheat Farmers	Huron
22-Jul	9:00 to 12:00	North Central Growers Elevator	Herreid
22-Jul	1:30 to 4:00	Walworth Co Highway Dept	Selby
23-Jul	9:00 to 12:00	Perkins Co Fairgrounds	Bison
23-Jul	1:30 to 4:30	Southwest Grain	Lemmon
24-Jul	9:00 to 12:00	SD Wheat Growers	McLaughlin
24-Jul	1:30 to 4:00	Airport	Timberlake
29-Jul	9:00 to 2:00	AgriLiance Warehouse	Aberdeen
30-Jul	9:00 to 1:00	Border States Coop	Sisseton
31-Jul	9:00 to 11:00	Farmers Elevator	Rosholt
1-Aug	8:00 to 1:00	Brookings Regional Landfill	Brookings
5-Aug	9:00 to 12:00	Wheat Growers	Wessington Springs
6-Aug	9:00 to 12:00	Davison Co Extension	Mitchell
7-Aug	9:00 to 12:00	Lacey's	Salem
8-Aug	9:00 to 2:00	SDDA Bait station	Pierre
12-Aug	9:00 to 1:00	SD Wheat Growers	Chamberlain
13-Aug	9:00 to 12:00	Mettler's	Menno
13-Aug	1:00 to 4:00	Bon Homme Co Highway Dept	Tyndall
14-Aug	9:00 to 12:00	Country Pride Coop Fertilizer Plant	Wagner
14-Aug	1:00 to 4:00	Farmer's Alliance	Corsica
15-Aug	9:00 to 12:00	Turnis Farm Service	Platte
19-Aug	9:00 to 12:00	Lake Preston Soil Service	Lake Preston*
19-Aug	1:30 to 4:00	Cenex Agronomy Center	Howard*
20-Aug	9:00 to 12:00	Helena Chemical Company	Madison*
20-Aug	1:30 to 4:00	Moody Co Highway Dept	Flandreau*
21-Aug	9:00 to 2:00	Renner Fire Hall	Renner*
3-Sep	9:00 to 12:00	SD DOT Yard	Murdo
4-Sep	9:00 to 2:00	Tripp Co. Recycling Center	Winner
9-Sep	8:00 to 11:00	Midwest Coop/Cenex	Philip
9-Sep	1:00 to 4:00	Bennett Co. Fairgrounds	Martin
10-Sep	9:00 to 12:00	Finkbeiner Feed	Belle Fourche
11-Sep	8:00 to 11:00	Central States Fairgrounds	Rapid City
11-Sep	12:30 to 3:00	Dakota Mill & Grain	Wall

*Shaded Locations have revised dates! All times are local
For more information, contact your County Extension Office, or the South Dakota Department of Agriculture at 1-800-228-5254 or visit website at www.state.sd.us/doa/das/