

# S.D. High Court Overturns Manslaughter Conviction

BY CHET BROKAW  
Associated Press

PIERRE — A split South Dakota Supreme Court on Thursday overturned a Sioux Falls woman's manslaughter conviction for causing a fatal crash by driving the wrong way on an interstate.

The 3-2 ruling said 30-year-old Tammy Kvasnicka is entitled to a new trial because a police officer's testimony should not have been allowed in her first trial. The majority opinion said the officer's testimony comparing the force of the July 2010 crash to the simultaneous firing of more than 900 handguns was irrelevant and probably influenced the jury.

The dissenting justices said the officer's testimony was relevant to proving

Kvasnicka was guilty of manslaughter by means of a dangerous weapon because she was using her car in a way likely to cause death or serious injury. Even if that testimony was not relevant, it did not change the jury's verdict, the dissent said.

Authorities said Kvasnicka drove the wrong way on Interstate 229 in Sioux Falls while drunk and hit an oncoming car, killing one person and injuring another. Authorities said her blood-alcohol level was three times the legal limit for driving.

A jury in 2011 convicted her of first-degree manslaughter by means of a dangerous weapon, vehicular homicide, vehicular battery and driving under the influence. She was initially sentenced to 60 years in prison, but the trial judge

later modified that to 70 years in prison on the manslaughter conviction, with 18 years suspended. The sentences for the other convictions were to run at the same time as the manslaughter sentence.

South Dakota Attorney General Marty Jackley said his office believes the ruling only overturns the manslaughter conviction. Prosecutors will now decide whether to proceed with a new trial on the manslaughter charge, he said.

Nicole Laughlin, Kvasnicka's appeals lawyer, said her client never disputed that her blood-alcohol level was over the legal limit or that she was driving the car. Kvasnicka's defense only argued that the appropriate conviction would be for vehicular homicide, not the

manslaughter charge that carries a much higher penalty, she said.

Kvasnicka's prison term for the manslaughter conviction amounted to a life sentence, Laughlin said.

The officer's testimony should not have been allowed as evidence on the manslaughter charge, Laughlin said, adding that the prosecution had plenty of other evidence that did not prejudice Kvasnicka's right to a fair trial.

"We're just happy. I know Tammy is happy," Laughlin said of the high court's ruling.

The high court's majority said the jury likely would have reached a different verdict if the officer's testimony had not been allowed. The justices noted that officer's testimony was based on a

calculation of force that would be generated by any car like Kvasnicka's traveling at 65 mph.

"Neither the kinetic energy calculation nor the pistol comparison was relevant because the evidence did not make it more probable or likely that Kvasnicka was using her vehicle as a dangerous weapon," Justice Lori Wilbur wrote for the court majority.

The dissenting opinion said the officer's comparison was relevant to determine whether Kvasnicka's car was a dangerous weapon.

"After all, the defendant's manner of use that morning made the vehicle legally the same as a gun or other inherently 'dangerous weapon,'" Justice Steven Zinter wrote in the dissent.

## Neb. Woman Appeals Dismissal Of Lawsuit

OMAHA, Neb. (AP) — The Nebraska Supreme Court is preparing to hear arguments Tuesday in a case alleging that the state discriminated against its African-American employees by offering less health insurance coverage to state workers living in Lincoln and Omaha.

Longtime state employee Sandra Cartwright argues that in 2007 and 2008, the state offered plans with significantly less coverage to state employees living in a handful of zip codes in and around Omaha and Lincoln. According to her lawsuit, 96 percent of the state's estimated 450 African-American employees lived in those areas.

The state stopped the practice in 2009, but has defended the differing plans as equivalent, saying cost savings — not discrimination — led to the change. State attorneys also note that more than half of the state's employees live in those areas.

A Lancaster County District judge sided with the state last year and dismissed the lawsuit, but Cartwright appealed, and the Supreme Court agreed to hear the case.

## Neb. Panel Kills Prenatal Care Repeal Bill

LINCOLN, Neb. (AP) — Lawmakers have halted an attempt to repeal state-funded prenatal care for the unborn children of illegal immigrants in Nebraska.

The Legislature's Health and Human Services Committee voted 6-0 to kill the measure, with one lawmaker abstaining.

Sen. Charlie Janssen, of Fremont, introduced the measure after the Legislature voted to restore the benefit last year. The issue sparked a contentious debate among lawmakers, who approved it after narrowly overriding Gov. Dave Heineman's veto.

Janssen says he was disappointed with the vote. He says he introduced the measure in part to show Nebraska residents where their particular state senator stood on the issue. Term limits have brought 10 new lawmakers into office.

Janssen says he believes that most Nebraskans remain opposed to the benefit at taxpayer expense.

## Father, Girlfriend Of S.D. Escapee Held In Neb.

LINCOLN, Neb. (AP) — Authorities have filed charges against the father and girlfriend of a man who failed to return to a minimum-security South Dakota prison.

The *Sioux City Journal* reports that 45-year-old Robert Thorngren and 28-year-old Melanie Hollingsworth are both charged with accessory to a felony, a misdemeanor.

The two are accused of helping South Dakota prison inmate Travis Thorngren. The 30-year-old is Robert Thorngren's son and Hollingsworth's boyfriend.

Travis Thorngren was arrested last week in south Sioux City, Neb. All three were being held in the Dakota County Jail in Dakota City, Neb.

Police say Travis Thorngren went missing March 18 from a minimum-security unit at the South Dakota State Penitentiary. He had been serving a five-year sentence on a grand theft conviction.

## South Dakota Hog Inventory Down 9 Percent

SIoux FALLS (AP) — The number of hogs and pigs in South Dakota is down 9 percent from the same time last year.

That's according to the U.S. Department of Agriculture hog inventory report. The USDA says there were 1.18 million head in the state on March 1.

Breeding hog inventory stood at 175,000 head. This is unchanged from last March 1. Market hot inventory was at 1.01 million head, which is down 10 percent from last year.

South Dakota hog producers intend to farrow 90,000 sows during the March-May 2013 quarter. This is down 5 percent from the actual farrowings during the same period a year ago.

## Meth Bust Is Biggest In Sioux Falls History

SIoux FALLS (AP) — Authorities in Sioux Falls say a bust netted nearly 9 pounds of methamphetamine and more than \$94,000 in cash.

Police Chief Doug Barthel says it's the largest meth seizure in the city's history. Authorities were tipped off by employees at a hotel where a woman had apparently forgotten about a large amount of cash that had been left under a mattress in one of the rooms.

About \$87,000 was found in the room. The rest was found during searches of the woman's vehicle and home.

The 42-year-old woman was arrested, along with two Sioux Falls men, ages 19 and 42.

## Neb. Lawmakers Advance Water Task Force Proposal

BY GRANT SCHULTE  
Associated Press

LINCOLN, Neb. — A proposal to identify long-term water conservation projects in Nebraska cleared a key hurdle in the Legislature Thursday, but lawmakers will likely scale it back to reduce its cost.

Lawmakers gave first-round approval to a bill that would create a 28-member water task force. The group would identify water-project needs, organize them and recommend a set of priorities to the Legislature.

Sen. Tom Carlson of Holdrege introduced the bill in the wake of a summer drought that stressed farms, ranches, cities and private wells. Agriculture consumes the vast majority of Nebraska's water.

"Water is life," said Carlson, chairman of the Legislature's Natural Resources Committee. "The drought of 2012 helped us realize that our water supply is not unlimited. We must manage our water resources well through future generations, for the benefit of all Nebraskans."

Some lawmakers questioned the measure's cost and whether a

future Legislature would have the political will to enact the task force's suggestions, particularly if it involves millions of dollars in new spending.

Sen. Steve Lathrop of Omaha said the task force recommendations might never come to fruition unless lawmakers are willing to act on them. If lawmakers choose to spend on canals, dams, and other water projects, he said, they likely would have to divert money away from K-12 school funding.

"What if it says we need to spend \$1 billion in dams over 20 years?" Lathrop said. "There's no point in doing a study unless we're prepared to pay for it."

Carlson said the task force would focus on ways to retain more water in the northern and western parts of the state, so more can flow south and east in drier years. The task force would focus on ways to maintain water quality and quantity, he said.

The proposal would cost about \$3 million, mostly for consultants and research within a six-month window between June and December. The task force would send its recommendations to the Legislature by Jan. 31, 2014.

## Flu Numbers In S. Dakota Double Last Year's Totals

PIERRE (AP) — South Dakota is being hit hard by the flu this season, with cases, hospitalizations and deaths about double last season's totals.

There have been nearly 950 confirmed cases of influenza in South Dakota this season, more than 330 hospitalizations and 36 deaths, according to the Health Department. Totals from the 2011-2012 flu season were 505 cases, 164 hospitalizations and 17 deaths.

"It's been a worse year this year by anybody's measuring stick," State Epidemiologist Lon Kightlinger told the *Capital Journal*.

This year's flu vaccine isn't working nearly as well as health workers had hoped it would, according to the Centers for Disease Control and Prevention.

"What they found is the vaccine this year was overall about 62 percent" successful, Kightlinger said. "If you had a hundred people and you vaccinated all of them and coughed in

all their faces and exposed them to influenza, 62 of the hundred would not get sick, but 38 of them would have some sort of infection.

"That's not good news," he said. "We'd like in the neighborhood of 99 percent (successful), which is what we're used to seeing in the measles vaccine, for example."

Every disease and every vaccine presents special challenges, and influenza is especially difficult to fight, according to Kightlinger.

"The virus is always evolving, always mutating, always changing," Kightlinger said.

This year's flu season is past its peak but it isn't over. The season typically begins in October and lasts until April or May.

"This is not a trivial disease. It's a bad disease. And since it hits every year, and it's common, people want to minimize it," Kightlinger said.

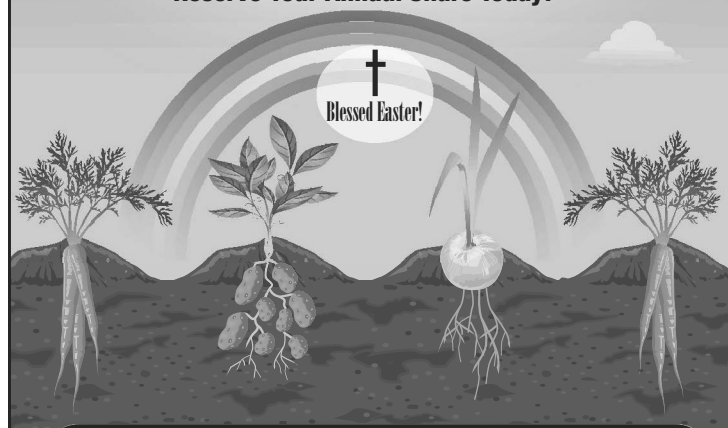
The vaccine is still the best weapon against the flu, he said.

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