

Court Denies Requests Of 2 In Miscalculated Sentence Cases

MARGERY A. BECK
Associated Press

OMAHA, Neb. — The Nebraska Supreme Court on Friday denied the legal requests of two men ordered back to prison last year after being wrongly released because state officials had routinely miscalculated sentences.

The state's high court dismissed the appeal of Kena Jackson, 41, who was released last year after serving 10 years on a drug possession conviction as a habitual criminal. Authorities later determined Jackson had been released 2½ years too early and returned him to prison.

Jackson argued that a lower court lacked jurisdiction to order his arrest and return to prison and that issuing the arrest and commitment warrant without notice or a hearing violated his constitutional right to due process.

State attorneys had argued that giving Jackson and other freed inmates advance notice about hearings would have given them a chance to flee.

The high court said in dismissing Jackson's appeal that the lower court's order for his arrest and commitment was a temporary enforcement order that cannot be appealed. It said only final court orders may be appealed. The justices said Jackson should have instead filed a petition for habeas corpus, which is the

right to seek relief from illegal detention.

But in a second opinion Friday related to the state's early release and rearrest of prisoners, the Supreme Court denied the habeas corpus petition of another man affected by the miscalculated prison sentences, Bruce Caton.

Caton, 58, was sentenced in 2004 as a habitual criminal after being convicted of burglary, meaning he had to serve the mandatory minimum of 10 years before he could start earning "good time" credit. Caton was released more than five years early, according to the corrected calculations. He was arrested last year and brought back into the prison system's custody before being immediately released on parole.

Caton said in his petition that his arrest and new subjection to parole violates constitutional prohibitions against ex post facto, or after-the-fact laws and punishments. The high court rejected that argument, saying that previous court rulings and state laws regarding mandatory minimum sentences and "good time" provisions — which enable prisoners to trim time off their sentences because of good behavior — clearly spell out when inmates should be released. Therefore, the court said, Caton's return to prison was neither surprising nor legally unsupportable.

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on that, but that is something that's on the table."

Woods also invited anyone with ideas to speak at Tuesday's meeting.

"I'm open to suggestions on what people think would be a good solution to this long-term problem," he said. "The problem hasn't gone away and will continue to be there. These roads have not been taken care of or had dollars put in them for 10-20

years. We have to find some solution where everyone can come to the table and agree on."

Also Tuesday, the commission will also consider a number of plats and variances, hear a presentation from CivicPlus on a website proposal, canvass the special election and hold an executive session.

The commission meets at 4 p.m. Tuesday in the Yankton County Government Center.

Follow @RobNielsenPandD on Twitter.

Accidents

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Courtesy for firefighters and law enforcement at accident scenes is severely lacking.

"If we have a truck set on one side of the scene with a stop sign, and we tell people to proceed by the accident site with caution, they'll be back to highway speed by the time they get to us," said Nickles.

He noted that all firefighters wear federally-approved traffic vests that make them stand out at accident scenes. The trucks they use have blinking and flashing lights and reflectors. They also use large portable signs that say "Emergency Scene Ahead."

However, it doesn't always help.

"People will just disregard the signs or claim they didn't see them," Nickles said. "There is a law that states that if someone comes across emergency flashing lights, they need to slow down and move over. That doesn't seem to happen."

Nickles said he once visited a fire truck factory and saw that the back of one of the largest trucks, which was equipped with a lighting system like the ones used at construction sites, was crushed after having been hit by a car at highway speed.

Nickles has witnessed close calls at accident sites with passing traffic and once, an actual tragedy.

"Some people were looky-looing and drove under a semi and were killed," he said. "A deputy a few years back was clipped by a mirror on a pickup, and I had a close call a couple weeks ago working a truck fire. There was plenty of light since the truck was in full blaze and I had to jump out of the way to keep from getting hit."

Close calls like that have happened to many firefighters and law enforcements at accident scenes, which is why they often don't hesitate to resort to extremes to protect themselves.

"We will shut the highway down if we have a lot of activity going on," said Nickles. "We'll do the best we can to get traffic moving again."

The advice Nickles has for passing motorists is simple: Be cautious.

"If you see a lot of vehicles with lights on, whether it be an ambulance, a fire truck or a police cruiser, the lights are telling you that something's going on and you need to slow down and take precaution."

Nickles also asks motorists to think of the people working accident scenes.

"All the emergency personnel are trying to do a job," he said. "Some are volunteers doing it for nothing. Let's give them courtesy. Slow down and be prepared to come to a complete stop. You're not losing that much time when you make those precautions."

Follow @ReillyBiel on Twitter.

Lawmakers Seek Fixes For EMS Shortages In Rural Nebraska

GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Nebraska lawmakers are looking for ways to bolster the state's rural emergency medical services, which providers said Friday rely heavily on volunteers despite difficult and time-consuming training requirements.

Medical personnel also told a legislative committee that the state relies on a patchwork of local ambulance services, with nothing to prevent a rural service from closing its doors. At the same time, they noted, the state has increased its training and record-keeping requirements while the number of emergency calls has increased.

"The state of Nebraska continues to require more and more of a smaller and smaller pool of volunteer EMS providers," said Micheal Dwyer, an emergency medical services technician from Arlington. "... This shortage has already caused significant concerns for patient care, particularly for small communities."

Dwyer said the state has failed to

pass any "meaningful incentives" that would help retain volunteers, who often have to sacrifice work, family and vacation time. Lawmakers considered a \$500 tax credit for volunteer firefighters in 2013, but the proposal died in committee.

The hearing was scheduled as part of a legislative study by Sen. Dan Watermeier of Syracuse, who is looking for ways to recruit and retain more EMS volunteers. Becoming an EMS provider in Nebraska generally requires 160 hours of classroom training, plus independent study time, after which candidates must pass a national exam that has a high failure rate.

Watermeier said he doesn't yet know whether he'll introduce legislation when lawmakers reconvene in January, but the problem may require changes from the Legislature, state agencies and local governments.

"I think the answers are going to be very multi-faceted," Watermeier said after the hearing.

Some of the solutions proposed include regionalization of services, financial incentives for volunteers and providing more rural representation on the state's emergency medical services board. Us-

ing a combination of paid and volunteer emergency personnel was also an option, as some local governments have done.

Some senators questioned whether increased training requirements and costs are a barrier, but doctors urged them not to lower the current standards. Emergency personnel need even more training nowadays because of advances in medical diagnostics and equipment, said Dr. John Bonta, an emergency room physician in Lincoln.

"Your quality of care shouldn't be compromised because of your distance from a hospital," Bonta said.

Justin Scamehorn, an EMT from Waco, said rural providers need a greater voice on the state regulatory board, which is required to have at least five members from each of the state's three congressional districts.

Gov. Pete Ricketts said in a letter to the committee that he continues to hear concerns from residents about Nebraska's emergency medical services, and is eager to work with lawmakers on the issue. Ricketts said he has directed Courtney Phillips, the CEO of the Department of Health and Human Services, to review all of the state's EMS program requirements.

Plan Would Allow Nonresident Lion Hunting In SD

SPEARFISH — A proposal to allow nonresidents to hunt mountain lions in South Dakota is drawing opposition.

The Game, Fish and Parks Commission plan would allow nonresidents to go after lions for \$121, the same fee as a nonresident pheasant license, the *Rapid City Journal* reported.

The South Dakota Wildlife Federation and the Prairie Hills Audubon Society during a public hearing in Spearfish on Thursday testified against allowing nonresidents to hunt lions in the state, where the lion population has decreased to an estimated 240 animals.

The drop has led to a proposed decrease in the

number of cats that can be killed during the upcoming season, from last year's limit of 75 total lions or 50 females to 60 animals or 40 females.

"It's far too early to open up the season to nonresidents," Wildlife Federation Executive Director Chris Hesla said.

Game, Fish and Parks as of Thursday also had

received 21 written comments opposed to allowing nonresidents to hunt lions, and only three in favor.

"It's an emotional issue and we recognize that," Commission Chairman John Cooper said.

A final decision on the matter will be made later.

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