

# Case Shows Split In School, Police Inquiries Into Rape Claim

BY DIRK LAMMERS  
Associated Press

SIoux FALLS — A South Dakota student accused of sexual assault is suing the school that suspended him, a case that highlights the differences in how university and criminal investigations of such reports are carried out.

Koh Evan Tsuruta, who is charged with rape, assault and false imprisonment, has denied the allegations and wants Augustana University to halt its investigation that will determine if he is expelled until his criminal case is resolved. A federal judge has denied his request, and Tsuruta is considering whether to appeal.

The lawsuit focuses on federal nondiscrimination policies that require schools to conduct swift investigations into reports of sexual assault with rules and a purpose different from those of criminal trials.

Augustana's proceedings use the lower "preponderance of evidence" standard, not the "beyond a reasonable doubt" standard of criminal cases, said Tsuruta's attorney, Shawn Nichols. He said the investigation denies Tsuruta his right to confront witnesses, his right to counsel, his right

against self-incrimination and presumes guilt instead of innocence.

"Nothing about it is intuitive," Nichols said. "You have educators who have little desire or training to adjudicate criminal matters."

Tsuruta is already suspended, is under court order to have no contact with his accuser and is living three hours away in Iowa, making the proceedings unnecessary, said Nichols.

Augustana's campus safety director and Vince Roche, an attorney representing the school, did not respond to messages seeking comment.

In a court filing, Roche said the university is fulfilling its obligations under the federal Title IX by following its grievance procedures, and is ensuring fairness to both Tsuruta and the woman who accused him. He did not give examples.

Title IX prohibits discrimination on the basis of sex, saying it interferes with students' right to receive an education. Sexual harassment and sexual violence fall under that umbrella. A 2011 memo from the Department of Education told schools not to wait for the conclusion of criminal investigations and take immediate steps to protect students.

Lisa Maatz, a spokeswoman for the Washington-based American Association of University Women, said university investigations thus have a different goal than criminal trials, as a school is responsible for maintaining a safe campus. She said constitutional protections are offered in criminal courts because a person's liberties are at stake, and universities don't jail people for violating student codes of conduct.

"They're looking to see what they can do right off the bat to help the survivor maintain what she needs to do to stay in school, and also to see if any school rules have been violated," Maatz said.

Tsuruta, 25, was arrested in August and indicted in relation to a July 3 incident at his apartment. A 23-year-old woman said that after returning with others from a bar and being left alone with Tsuruta, he prevented her from leaving and raped her, according to the arrest affidavit. He is scheduled to be arraigned Thursday.

Tsuruta, who was suspended shortly after being arrested, denied the allegations to the university through his attorney but indicated that he would not provide a statement for Augustana's investigation while

criminal charges are pending. Augustana's investigator said that without it, "the only conclusion this investigation can draw is that if he had obtained consent, he would have shared how he done so," according to court records.

Jonathan Taylor, director of the advocacy group Boys and Men in Education, called that language "disconcerting" and said it puts the burden of proof on the person accused.

Taylor said at least 89 similar lawsuits have been filed across the nation since 1992, with only a handful of students successfully arguing for a stay of a suspension or expulsion.

Mark Hathaway, a Los Angeles attorney who has sat in on more than a dozen university sexual assault hearings but is not involved in Tsuruta's case, said he believes the criminal court system is better equipped to handle such serious issues when a student's education and future is at stake.

Maatz disagreed that universities lack the ability or expertise to handle such proceedings. She said Title IX has been around for more than 40 years, and schools have been enforcing their own student codes of conduct for centuries.

## Teen In Shooting Hires Investigator

CANTON (AP) — A teenage student charged with attempted murder in the shooting of a South Dakota high school principal has hired a private investigator to help in his defense.

The *Argus Leader* reports that a motion filed by the defense team for 16-year-old Mason Buhl shows an investigator has been hired to locate and interview witnesses.

Buhl is charged as an adult on one count each of attempted murder and the commission of a felony while armed with a firearm. He is accused of confronting Harrisburg High School Principal Kevin Lein with a handgun in his office Sept. 30 and firing a single shot that left the principal with a flesh wound.

Buhl's attorney didn't immediately return a call from the newspaper seeking comment.

Buhl is being held without bond.

## Pregnant Woman Clings To Getaway Car

SIoux FALLS (AP) — Police in Sioux Falls say a pregnant woman jumped onto a moving vehicle to try to stop a man from stealing money from a competition.

Police spokesman Sam Clemens says the woman saw 23-year-old Austin Johnson take the cash box early Sunday, chased him and kept him from closing the door of his sport utility vehicle. Clemens says she jumped onto the running boards as the SUV began to move.

Clemens says the woman got on the running boards because she was afraid of getting dragged under the SUV. She fell off when the SUV crashed into a pole.

Clemens says she broke her left arm and right leg, but the fetus was not injured.

Johnson faces aggravated assault and other charges. It's unclear if he has legal representation.

## SD Teacher Of The Year To Be Announced

OACOMA (AP) — The South Dakota Teacher of the Year will be announced during a ceremony Thursday in Oacoma.

The winner will be selected from five finalists who have already been chosen to represent different regions of the state because of their outstanding work.

The finalists for the award are Kim Davidson from the Rosholt School District; Heidi Holforty from the Huron School District; Sarah Lutz from Stanley County School District; Shelly Mikkelsen from the Belle Fourche School District; and Kaye Wickard of the Ipswich Public School District.

The winner in South Dakota will be in the running for the National Teacher of the Year, which will be announced during a ceremony in Washington in April.

## Signature Gathering For Gambling

LINCOLN, Neb. (AP) — A group that wants to legalize casino gambling at Nebraska race tracks is ready to start gathering signatures to place the issue on the 2016 ballot.

Keep the Money in Nebraska announced Tuesday that it will ask voters to sign three petitions.

One is a proposed constitutional amendment to allow games of chance. Another would identify where casinos could be located and how they would be regulated. A third would impose a 20 percent tax on gross gambling revenues, with 75 percent going to the state and 25 percent going to local governments where the casinos are located.

Former state Sen. Scott Lautenbaugh, a spokesman for the group, says the state has lost billions of dollars in recent years to neighboring Iowa and South Dakota, where gambling is legal.

## College's 1st Black Alumnus Returns

CRETE, Neb. (AP) — The first black graduate of Doane College in Crete has established a new lecture series on race and social justice.

Bob Polk was back on campus Monday to accept the college's highest alumni award and to kick off the new lecture series, the *Lincoln Journal Star* reports. The topic of his speech was on "why race still matters."

Polk said he planned to talk about what students, colleges and others can do, and that he would strike a "deliberate tone."

"I want to say that the more things change, the more things remain the same," he said.

Polk, who grew up in Chicago, applied to Doane College in 1949. Administrators said they couldn't find anyone who wanted to be his roommate and turned him down. He appealed to Congregational Church leaders, and he was on his way to the college shortly after that.

Despite the initial rejection, Polk said he felt accepted once on campus. Still, it felt different. He and his friend Georgetta Cooper, who followed him from Chicago, were the only black students on campus.

"Trying to meld and be a part of campus without shedding our roots or giving up our identities was interesting," he said.

After graduation, Polk went on to work at Dillard University, a historically black liberal arts college in New Orleans, and as a youth minister in New York. He also established an AIDS program under the Council of Churches in New York City.

Polk met with current students and faculty during a Monday lunch, and students talked about experiences and frustrations at the college. Students of color make up 10 to 14 percent of enrollment that's around 1,000 students.

Students said minority students tend not to stick around Doane College.

## State Commission May Seek More Power To Regulate Whiteclay

BY GRANT SCHULTE  
Associated Press

LINCOLN, Neb. — Nebraska alcohol regulators are planning to ask lawmakers for more power to restrict beer sales in areas such as Whiteclay, a village bordering South Dakota's dry Pine Ridge Indian Reservation where alcoholism runs rampant.

The Nebraska Liquor Control Commission is expected to add an "alcohol impact zone" measure to its list of 2016 legislative proposals at a meeting next week, the commission's chairman said Tuesday.

Whiteclay's four beer stores sold the equivalent of 3.9 million cans of beer last year despite having only 14 residents. Most days, the sidewalks are filled with aggressive panhandlers and people passed out amid piles of garbage. Activists and some members of the Oglala Sioux Tribe blame the town for the reservation's social problems, including high rates of fetal alcohol syndrome, but despite their efforts, little has changed in the last several decades.

"If it was me, I'd implement (the measure) tomorrow," liquor commis-

sion chairman Bob Batt said. "But you need buy-in from the Legislature."

The measure would allow the commission to designate specific areas as "alcohol impact zones" if a local government requests it, after which alcohol-selling stores could have their hours limited, certain products banned from sale or other restrictions.

A similar bill stalled in committee in 2012 and was opposed by lobbyists for the alcoholic beverage industry, who argued it would create an unfair advantage for businesses outside the zone. Lobbyists did not immediately return a message Tuesday.

The "alcohol impact zones" designation could also be used in problem areas in Omaha and Lincoln, said Hobert Rupe, the commission's executive director.

"Is it going to be a silver bullet? No," Rupe said. "But we believe that if the Legislature were to pass it, it would be a valuable and the commission could use to solve some of these societal problems."

Sheridan County, which includes Whiteclay, may endorse the zoning idea next week at a meeting about public safety concerns, county Commissioner

James Krotz said. The commission will also look at possible ways to address the alcohol problem, including a request that state officials ban Whiteclay's single-can beer sales.

But Krotz said he was also concerned that closing the establishments would rid the area of its most affordable grocery stores, which are frequented by tribe members and residents of northern Sheridan County.

"There's no easy solution to this," he said, noting that he had hoped the tribe's 2013 vote to legalize alcohol would have eased the problem. It was never put into effect.

Gov. Pete Ricketts has said he wants to address the problem by working with local law enforcement and community leaders who live and work in the area.

Bruce BonFleur, a Whiteclay resident and director of the Lakota Hope Ministry, met Tuesday with Attorney General Doug Peterson in hopes of adding more law enforcement.

"I am more optimistic than ever in my 13 years of involvement," BonFleur said. "The Whiteclay that so many people know is about to change."

## Government Sues Nebraska Beef Plant Over Settlement

BY MARGERY A. BECK  
Associated Press

OMAHA, Neb. — The U.S. Justice Department filed a lawsuit Tuesday against a Nebraska beef production plant it says has violated a settlement agreement because it didn't like the agency's news release about the settlement.

Omaha-based Nebraska Beef agreed in August to

pay a \$200,000 fine and back pay to affected workers as a means of settling a lawsuit in which the Justice Department alleged that the plant had discriminated against immigrants authorized to work in the U.S. The beef plant also promised to update its hiring practices to avoid discrimination and undergo government monitoring for two years.

A federal investigation

showed the beef producer was requiring employees who aren't citizens to provide proof of their immigration status, the department said, and workers who are citizens didn't face the same requirements.

In the new lawsuit, the Justice Department said Nebraska Beef has refused to pay the fine and the affected workers. When pressed, Nebraska Beef disavowed its

obligations under the settlement because "it feels that the department breached the settlement agreement by phrasing a press release differently from language in the agreement's preface," the lawsuit said.

"Defendant did not, and cannot, cite to any provision of the agreement or legal authority to support this position," the Justice Department's complaint said.

## Cancer Program Focused On Natives Gets Ralph Lauren Donation


SIoux FALLS (AP) — A program that for years has worked to improve cancer cure rates and treatment among South Dakota's Native American population is getting some help from the fashion industry.

The Walking Forward program managed by Avera Health has been awarded a \$50,000 donation from the Pink Pony Fund of the Polo Ralph Lauren Foundation.

Walking Forward assists Native Americans who live in Rapid City and surrounding communities as well as the Pine Ridge, Rosebud and Cheyenne River Reservations. It provides Native Americans access to clinical trials, palliative care and screening for colorectal, cervical, breast and prostate cancer.

Since September 2013 in the U.S., 25 percent of the purchase price of Pink Pony products benefits the Pink Pony Fund to support programs for cancer screening, early diagnosis, treatment, research and patient navigation.

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## Monday, October 19

Doors open at 11:30am – Lunch will be served at noon – Forum begins at noon

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