

Attorneys Debate Death Row Inmate's Legal Options

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Attorneys for a Nebraska death row inmate say the state's recent struggle over capital punishment has raised new legal questions that they need to explore, while a state attorney says the prisoner has exhausted all options except for clemency. Attorneys for John Lotter said in federal court Tuesday that there are unanswered legal questions stemming from the Legislature's vote to abolish capital punishment, a subsequent ballot measure to reinstate it and the governor's efforts to obtain lethal injection drugs. Lotter and co-defendant Thomas Nissen were convicted in the 1993 slaying of Teena Brandon, a 21-year-old woman who lived briefly as a man, and two witnesses, Lisa Lambert and Philip DeVine, at a rural Humboldt farmhouse. The crime inspired

the 1999 movie "Boys Don't Cry." At trial, Nissen testified against Lotter as part of a deal with prosecutors, saying he stabbed Brandon while Lotter fired the shots that killed all three. Nissen got a life sentence, and in 1996 Lotter was sentenced to death. Nissen has since changed his story and said he, not Lotter, shot all three. Lotter appealed, but his appeals were rejected by the Nebraska Supreme Court, the U.S. District Court of Nebraska and the Eighth U.S. Circuit Court of Appeals. The arguments on Tuesday came during a hearing over whether Lotter, 44, should be allowed to keep his court-appointed attorneys for anything other than a request for clemency. Lotter was convicted in a state district court but filed a legal challenge in federal court arguing that his sentence was unlawful. U.S. Senior

District Judge Richard Kopf previously ruled that Lotter had exhausted all other legal remedies. "He has significant potential claims that he has to investigate before he can present them," said Lotter's attorney, Rebecca Woodman of the Kansas City-based Death Penalty Litigation Clinic. Woodman declined to elaborate after the hearing, but said the repeal law creates new legal uncertainty in Lotter's case. "Time will tell as to what issues might arise," she said. Woodman argued in court that Gov. Pete Ricketts' efforts to obtain lethal injection drugs from a supplier in India are illegal. The U.S. Food and Drug Administration has said it won't allow state officials to import two required drugs, for which the state paid \$54,400. Ricketts has said his administration is still working with the federal government to bring

the drugs to Nebraska. Assistant Nebraska Attorney General James Smith said the state believes that Lotter has run out of all options except to request clemency, and that his death sentence remains in effect. Nebraska lawmakers voted in May to abolish the death penalty over Ricketts' veto, triggering a ballot drive to place the issue before voters in 2016. The group Nebraskans for the Death Penalty announced last month that it had collected nearly 167,000 signatures, which are now being verified to confirm whether the issue will appear on the November 2016 ballot. At least 57,000 signatures are needed to place the issue on the ballot, but nearly 114,000 are required to prevent the repeal law from going into effect before the election.

Mother Of Peterson's Son Testifies

CANTON (AP) — The ex-girlfriend of a man accused of killing her 2-year-old son says she lost her "entire world" when her child died. Ashley Doochen testified Tuesday in the trial of Joseph Patterson. Patterson is accused of killing Tyrese Robert Ruffin, who was the son of Doochen and Minnesota Vikings running back Adrian Peterson. Both sides gave opening statements Tuesday. The *Argus Leader* reports that Lincoln County State's Attorney Tom Wollman described to jurors Patterson's life leading up to Ruffin's death. Wollman says Patterson texted his girlfriend the day Ruffin died in October 2013 that he felt he was becoming "bitter at the world." Defense attorney Tim Rensch emphasized Patterson's role in calling authorities for help. He said there's "no way" evidence will show Patterson hit Ruffin.

State To Host Legislative Training

PIERRE (AP) — Tribal officials and staff who want to learn more about how the state Legislature operates can attend a training session put on by the state Department of Tribal Relations and the Legislative Research Council. The Tribal Relations Department said Monday that the training at the state Capitol in Pierre will take place on Sept. 28. The goal is to make sure that tribal officials are able to share effectively with state lawmakers the issues confronting their communities. Lawmakers gather for the 2016 legislative session in January.

State Has Good Vaccination Rates

SIOUX FALLS (AP) — South Dakota's childhood immunization rates are among the highest in the nation, according to federal health officials. An annual immunization survey by the Centers for Disease Control and Prevention tracking vaccination coverage among children age 19 months to 35 months found South Dakota had the highest coverage rate in the nation for polio and Haemophilus influenza B, or "Hib" disease in 2014. The state also had rates in the top 10 in the country for 11 other vaccines tracked by the survey. "Clearly, South Dakota parents recognize the importance of vaccinating their kids to protect them from disease," Secretary of Health Kim Malsam-Rysdon said. "We're also fortunate in South Dakota to have strong immunization requirements for school entry as well as health care providers who work hard to immunize their patients." State Epidemiologist Lon Kightlinger pointed to South Dakota's high immunization rates as the reason a measles outbreak in Mitchell this year did not spread farther. "That outbreak was a good reminder that we need to remain vigilant and work to not only maintain but increase our immunization rates to prevent disease," he said.

Man Takes Plea Deal In Knifing Of Friend

HASTINGS, Neb. (AP) — A 27-year-old man is scheduled to be sentenced in November after taking a plea deal in the knifing of a friend. The *Hastings Tribune* reports that Rusty Skarin pleaded no contest last week and was convicted of attempted assault. Prosecutors had lowered the charge and dropped another in exchange for Skarin's plea. His sentencing is set for Nov. 10. Investigators say Skarin argued with Jeffrey Kort on May 10 while they were driving home after working on a car together. Kort told an Adams County sheriff's deputy that he made Skarin get out of his vehicle but then returned to the scene a short time later. Kort says he and Skarin began fighting again, and Skarin stabbed him. Skarin says Kort choked him during their fight.

Ex-Tribe Chairman Gets Probation

OMAHA, Neb. (AP) — The former chairman of the Omaha Tribe of Nebraska has been given two years of probation in connection with the theft of money from the tribe. The *Sioux City (Iowa) Journal* reports that 54-year-old Amen Sheridan, of Walthill, was sentenced on Monday in U.S. District Court in Omaha. He'd pleaded guilty to one count of being an accessory after the fact. Court documents say Sheridan knew that Julia Whiteskunk had illegally used tribal funds for a down payment on the house they bought in 2009 and had helped her in order to prevent her arrest. Whiteskunk was executive director of the tribal housing authority. She was charged in the scheme, but she died in September 2014.

Ex-Police Chief Accused Of Killing Fiancé Appears In Court

BY JAMES NORD
Associated Press

BURKE — A former police chief in South Dakota charged with killing his fiancé in a shooting that had long appeared to be a hunting-related accident appeared briefly in court Tuesday, where a judge delayed much of the proceedings so the man can find an attorney. Authorities have offered few details since announcing last week that Russell Ray Bertram, 63, had been indicted for the 2009 killing of Leonila Stickney, who was his 26-year-old fiancé. The Gregory County Sheriff's Office initially had said officials believed Stickney's death was the result of an accidental shooting. Charlie Wolf, who was the sheriff at the time, told The Associated Press that while he didn't find physical evidence that disputed Bertram's account, he had some con-

cerns about Bertram's behavior after the shooting. The South Dakota Division of Criminal Investigation took over the inquiry as a cold case in December 2010. Sara Rabern, a spokeswoman for Attorney General Marty Jackley, has said the discovery of additional evidence by a cold case investigator led to Bertram's arrest, but she has declined to provide any details. Bertram, who lived in Sioux Falls before his arrest, served as police chief in Harrisburg until 2004, the *Argus Leader* reported. He is charged with first-degree murder and faces the death penalty or a mandatory life sentence if convicted. He is expected to enter a plea later this month. Wolf told the AP he interviewed Bertram at the hospital where Stickney died. Bertram told the sheriff that he was putting a gun into a vehicle when it went off and hit Stickney. Her death

certificate says Stickney died on the afternoon of Oct. 24, 2009, and it lists the injury's location as a "rural road." She was killed by a close-range gunshot wound to her abdomen caused by a 12-gauge shotgun. Wolf said he didn't think Bertram was acting right at the hospital — "not like you should if you just shot your girlfriend accidentally." "I've done this a long time ... so I was a little concerned about it, and then we found a few more things within two or three months of that that sparked a little more interest," Wolf said, including inconsistencies in Bertram's story. At Tuesday's hearing, Bertram appeared calm and offered mostly short, soft-spoken answers. Judge Kathleen Trandahl continued Bertram's arraignment until the end of the month so he can secure an attorney after the court denied his application for court-appointed counsel.

Report: Problems Persist In Juvenile Justice, Child Welfare

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Nebraska's juvenile justice system is failing to meet all of the goals that lawmakers set two years ago, resulting in higher than expected costs and a large number of youths who are sent to jails, detention centers and group homes, according to a report released Tuesday. The state inspector general's report said the Juvenile Probation Administration is still relying heavily on detention centers and other out-of-home placements for kids who run afoul of the law. The 2013 law transferred

the supervision of juvenile offenders from the Department of Health and Human Services to the administration office and set aside \$14.5 million for juvenile services and a grant program to treat young criminal offenders. But despite the drop in youth crimes, the probation office has received \$21.4 million in funding beyond the original expected costs, the report said. "While no one should expect a perfect juvenile justice system only two years into a reform effort, it is reasonable to assume that there should be movement in the right direction," said Julie Rogers, the inspector

general for Nebraska child welfare. "Unfortunately, there is some indication that juvenile justice reform is not on its intended track." The inspector general's office said it has received complaints about youths on probation who were "inappropriately detained" for violating their probation, even if they posed no threat to public safety. Some were detained because of a lack of available placements, a parent's refusal to follow court orders or for cursing at adults, according to the report. "This inappropriate use of detention is both costly to the state and harmful to

youth," the report said. The report also found that child welfare workers continue to have high caseloads, despite a 2012 law intended to ease their burden. Rogers said that encourages worker turnover and prevents children and families from getting the time and attention they need to succeed. Nebraska Department of Health and Human Services spokesman Kathie Osterman said her agency recently hired more caseworkers, but that they're still in training. "We continue to work on recruiting quality staff and reducing turnover," Osterman said.

South Dakota

Ex-Senate Candidate Is Given Probation

PIERRE (AP) — Former South Dakota U.S. Senate candidate Clayton Walker has avoided jail time for election law violations, instead being sentenced Tuesday to two years of probation. State Judge John Brown also ordered Walker to complete 200 hours of community service and told him to get a mental health evaluation within 30 days. Walker declined comment after the sentencing, but previously said he believes the charges against him were politically motivated. The 34-year-old from Black Hawk pleaded guilty in July to one count of submitting false petitions and one count of perjury, two days before he was to stand trial on multiple felony charges. Brown also ordered

Walker to pay costs and fees related to three court-appointed attorneys who withdrew from his case over the past year claiming Walker was difficult to work with. Brown estimated the amount at several thousand dollars. Walker last year sought the seat vacated by former U.S. Sen. Tim Johnson, but failed to make the November ballot as an independent. Authorities indicted Walker in June 2014 for submitting nominating petitions that included names of dead people, fictitious people and Hollywood celebrities, and for falsely swearing that he witnessed signatures on his petitions. Authorities later accused him of making repeated phone calls to several state offices, harassing and

threatening employees. Another candidate in the 2014 Senate field, Republican Annette Bosworth, faced the same charges as Walker and was convicted in May following a jury trial. She was sentenced in July to three years of probation, 500 hours of community service and court costs. The state medical board voted last week to revoke her medical license. Their cases spurred the state Legislature this year to change election law to give the secretary of state power to audit a random sample of the signatures on petitions from statewide candidates. Before, it could only be done on petitions for ballot measures.

State Historic Preservation Office Seeks Public Comment

PIERRE (AP) — The State Historic Preservation Office is seeking public comment on preservation needs and projects through Oct. 31. The office within the South Dakota State Historical Society manages the National Register of Historic Places program and relates historic preservation to economic, social and educational state objectives. It surveys, inventories and registers historical properties and promotes public awareness and provides

technical assistance. The office is asking which properties or areas need to be inventoried and which should be considered for nomination to the National Register of Historic Places. It also wants to know which properties are at-risk or endangered and what types of technical preservation assistance is beneficial. State Historical Society director Jay Vogt says the comments help program officials prepare an annual work plan.

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