



COLBY FREE PRESS

8 pages

Court of Appeals upholds Hildyard and Ketting ruling

By Patty Decker
Free Press Editor

The Kansas State Court of Appeals upheld an earlier ruling by the Thomas County District Court which granted summary judgment in favor of two Colby doctors named in a defamation lawsuit more than two years ago by another local doctor.

Dr. Duncan Davis, a general surgeon living in Goodland and providing services to hospitals in Thomas and Sherman counties during the time of the lawsuit, alleged that Drs. Victor Hildyard and Raymond Ketting made "false and defamatory statements about him."

The Kansas Court of Appeals in its decision last Friday disagreed with Davis' contention that there was sufficient evidence of malice and damages — affirming the trial court's "well reasoned opinion."

In the initial lawsuit, a third person, Judith Sears, a trustee with Citizens Medical Center at that time was also named in the defamation suit, but was later dropped.

Mike O'Neal of Hutchinson, representing Hildyard and Ketting, said on Tuesday that he and his clients believed all along that Davis' claim was frivolous and told his counsel so from the beginning.

"Davis complained of comments about the status of his licensure, which in fact was severely limited in Colorado," O'Neal said.

"He complained about talk of being the subject of lawsuits, which he is."

"He complained about talk of bodies being exhumed and, in at least one case one was."

O'Neal added that Davis also made no claim that anything was said about him by Ketting or Hildyard outside the confines of a medical staff meeting or other non-public meeting, but admitted he'd heard rumors told by others in the community.

“The statements in this case were made in the context of peer review proceedings and Dr. Davis has failed to demonstrate clear and convincing evidence of malice . . .”

Kansas Court of Appeals

O'Neal's reference to the "confines of a medical staff meeting" were in response to Davis' initial claim in the lawsuit regarding a deposition from then Chief Executive Officer Michael Boyles at Citizens Medical Center (who served in that capacity from 2000-03).

In Boyles' deposition he said: "Dr. Hildyard had stated during the course of a conversation in relation to the emergency room and surgical coverage (during a medical staff meeting), he had stated, and I can't remember the specific words, but it was either, 'Would you want a person operating on you' or 'I wouldn't want a person operating on me who can't get a license in any other state.'"

Boyles' deposition went on to say that Dr. Ketting followed up Dr. Hildyard's comments with: "There are four or five lawsuits pending in Goodland and their exhuming bodies."

The second inference Davis brought forward alleging defamation involved a meeting with the emergency medical technicians also at the hospital in Colby.

At the district court level, Judge Jack Burr of Goodland ruled that both meetings where these conversations took place regarding Davis were covered by the peer review privilege and consequently "confidential." As for outside the confines of the meeting, Burr further ruled that since statements made in those types of meetings are confidential

and the only evidence contained in this case would indicate that if the statements were made, they were repeated outside of the meeting by others and not by Hildyard and Ketting.

The Kansas Court of Appeals in upholding Burr's ruling, said they agreed with the trial court that, "Dr. Davis has failed to offer clear and convincing evidence of an extrinsic character to prove actual malice on the part of Dr. Hildyard or Dr. Ketting."

The higher court further ruled that, "the statements in this case were made in the context of peer review proceedings and Dr. Davis has failed to demonstrate clear and convincing evidence of malice that would lift the cloak of protection from these privileged statements."

Also noted in the syllabus by the court was that, "It would defeat the obvious purpose of the statute to force cases of this kind into trial based on allegations of the nature that we have here, when it is obvious that the basic substance of them; unreported restrictions on Dr. Davis' license in Colorado, malpractice lawsuits and the exhumation of a former patient, are true."

Hildyard said on Tuesday that both he and Ketting were happy with the decision.

Although it is unknown at this time, Davis can petition the Kansas Supreme Court for review of the Court of Appeals decision, O'Neal said.

The mending men



TISHA COX/Colby Free Press

City of Colby employee Mike Brier and Director of Public Works Marc Gilman looked over a pipe from a broken water main at Eighth and Country Club on Wednesday. Gilman said the pipe cracked and had to be replaced. Repairs only took about three hours and that was the only time the water was shut off, Gilman said.

Agency head's visit here twofold

By TISHA COX
Colby Free Press

The director of a state agency was in Colby Wednesday to educate residents about his agency's purpose.

Chuck Banks, state director for Kansas' United States Department of Agriculture Rural Development, stopped here as part of a state-wide tour in honor of National Homeownership Month.

The agency is honoring outstanding lenders in the state that its partnered with through its various

programs. As part of the tour, Farmers and Merchants Bank in Colby was one of the five lenders being recognized.

Also, part of the tour is to help raise awareness about the agency's programs. He said their focus right now is trying to stop outmigration in rural communities and how to keep it from happening.

"We've lost a lot of people in rural Kansas," Banks said.

Improving quality of life was his suggestion for giving people a reason to stay — like making available

affordable housing, health care and other infrastructure.

The agency put together a map showing population loss in all 105 Kansas counties. The map shows the peak census year and the percent in population decline. Thomas County was one of the few counties in the state that showed less than a 2.5 percent loss of population, with only 3.21 percent lost since its peak year in 1980.

Through its single family housing programs, the agency has helped more than 2,106.

Colby College board of trustees hires new dean of instruction

By Patty Decker
Free Press Editor

The Colby Community College board of trustees approved a replacement to fill the dean of instruction's position at its meeting this week.

Kris Bishop, who is currently a math instructor at the college, was considered the best qualified candidate, according to a committee assigned the task of recommending someone to fill the position which will be vacated at the end of June by

Gracemary Melvin.

Trustee member Don Kready, who served on that committee, said there were two local and four off-campus candidates in the running.

Kready said that Bishop will have her doctorate completed soon and said, "I believe she is someone who will hit the ground running."

It was further noted that Bishop has been involved with the reaccreditation process and is knowledgeable in many areas.

Although the majority of the board agreed with Kready and the committee's recommendation of Bishop, one trustee, Larry Arehart, disagreed with hiring from within.

"I think we needed to go outside of the college and hire someone who could bring in new ideas," he said.

Arehart went on record as being the only trustee to vote against Bishop. Trustees in favor included Curt Stephens, board chair; Cleona Flipse, Kenton Kriebiel and Don

Kready. The sixth member of the board, Larry McDonald, was absent.

In addition to Kready, other members of the Colby College selection committee included Krista Carter, Betty Kruse, Jeanne Thyfault, John Olson and Rod Thomasson.

In its decision to hire Bishop, the trustees also approved her salary at \$64,000.

Other contracts approved by a unanimous vote of those trustees present were: Allen Russell, supplemental for annual rodeo; Miles Ladenburger, golf coaching

contract, \$4,000; Linda Davis-Stephens, EduKan, cultural anthropology, salary to be determined per student; Tammy Huff, cheerleading coach, \$2,500; Melanie Forton, human resources, payroll, \$28,300; Nikol Scheuerman Nolan, admissions director, \$35,582; Kathy Britton, receptionist/faculty secretary, \$8.25 per hour; Trent Rose, part time 80 percent contract for English and Journalism, \$20,240 with \$9,500 paid by Outreach; and Carl Adams, softball coach, \$4,931.

Signs of wheat harvest popping up in area

By Tisha Cox
Colby Free Press

Off to a slow start, the wheat harvest in the area has begun and it won't be too long until it's in full swing.

Brian Olson, extension agronomist for northwest Kansas with the Northwest Research-Extension Center in Colby, said harvest should be underway in three to four days in Thomas County and the rest of the area. Inez Skolout with Hi-Plains Co-Op in Colby, said a couple of loads of wheat have already been

taken in at the Hoxie and Selden elevators.

"The quality has been good," she said. "It's better than last year."

Olson said so far, he's heard some good things about what's been brought in.

"We do have some good test weights," he said. "Rain in May and early June really helped."

Early test weights report some above 60 pounds per bushel, with some up to 63. Also, he doesn't see any problems with sprouting or insects because of dry conditions.

Olson said temperatures above 100 degrees and a little wind will help dry out the wheat, which improves test weights and eliminates the possibility of sprouting, which was a major problem last year.

He said farmers should have a harvest with no problems, and overall, thinks they'll be pleased.

"They'll be happy to cut some wheat," Olson said.

Roger Hale, manager of the Wheat Office in Colby, said he hasn't gotten too many calls yet but expected that to change late this af-

ternoon and on Friday. He said custom cutters will probably be rolling into the area between now and the weekend looking for work and said things at the office will pick up once they do.

Hale also reported about 2,500 bushels were taken in at the Menlo elevator on Wednesday. He said he hasn't yet heard what anyone's bushels per acre might be. And Jacqueline Schulte with Hi-Plains Co-Op, where some wheat has already been taken in said they have not heard what yields are running.

Street painter



TISHA COX/Colby Free Press

Shanae Calkins painted new parking lines on Franklin Avenue this morning. She and other summer city employees have been painting all week.



Age just no barrier for this entertainer

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