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FREE PRESS

# Convicted murderer claims trial was unfair

By Jan Katz Ackerman  
Colby Free Press

Assistant Attorney General Jared S. Maag of Topeka said today claims by Tod A. Pabst that he did not get a fair trial two times is an abuse of the courts.

Pabst is suing Kansas claiming he was wrongfully convicted of the March 1997 premeditated murder of his fiancée Phoebe Harkins in the home they occupied with their 3-year-old daughter.

He was tried and convicted in August 1997.

That conviction was overturned after he claimed a state's attorney made prejudicial remarks against him.



Tod A. Pabst

Tried and convicted a second time, Pabst is serving a 25-year sentence in Lansing Correctional Facility.

Open statements started at 9 a.m. with Richard Ney of Wichita saying Pabst didn't have effective counsel during his second trial. Assistant Attorney General Jared Maag denied Pabst's claims.

"If we are sticklers for the law," Ney said, "let's be sticklers on both sides."

Maag said the state's position is Pabst's due process was not violated because the Harkins family hired a private attorney, Pedro Irigonegaray of Topeka, to assist state prosecutors in the first trial.

Maag also said Pabst's attorneys during the first two trials were "not ineffective for failing to object to Irigonegaray's participation."

He said the Kansas Court of Appeals judges were not ineffective for failing to question Irigonegaray

**“Mr. Pabst had a certain date to file his claims and he failed to do that and he can't be rewarded for this.”**

Jared S. Maag,  
assistant attorney general

helping prosecutors try the criminal cases against Pabst.

Maag argued Pabst missed the statute of limitations deadline for filing motions in the civil case against the state.

He called Pabst's civil case an abuse of the judicial system.

"K.S.A. 60-1507 is in place to avoid this kind of abuse that's going on in this case," Maag said. "Ineffective counsel is without merit because (Pabst) has been put on notice that we were raising arguments about time limits."

Ney argued Pabst's previous attorney missed a state mandated deadline and between his hiring the case failed to move forward.

"(Mr. Pabst) had a certain date to file his claims and he failed to do that and he can't be rewarded for this," Maag said.

"I keep hearing from the state that Mr. Pabst fired Mr. Chapman, but this court knows Mr. Chapman went month after month not doing anything.

"What was (Mr. Pabst to do?)" Ney asked District Court Judge

Glenn Schiffner.

Ney told Schiffner he was trying to prove to him that Pabst's claim he had ineffective counsel wasn't an attempt to be rewarded, rather that his client "shouldn't be punished."

Schiffner told both Ney and Maag at a previous hearing in Pabst's civil case he had heard "discussion with Mr. Chapman he'd file an amended petition within 60 days."

"That did not happen and I assumed Mr. Pabst had abandoned his position and I see that's not the case," Schiffner said.

Ney and Maag continued to argue their positions about Pabst's petition and which parts of it should be upheld or dismissed.

Schiffner, after about 45 minutes, told both sides he would review the petition and decided before the end of the two-day hearing whether more briefs would be necessary for him to rule on the case.

Under Kansas law, it's up to Schiffner's discretion whether he will accept successive motions in the case and Pabst has the right to take Schiffner's decision to the Kansas Court of Appeals.

Pabst is also claiming he was subjected to double jeopardy as a result of the prosecutor's misconduct in the first trial.

He also claims the doctor who performed Harkins' autopsy had questionable professional history which made him not credible as a witness.

And he claims testimony of one of the Kansas Bureau of Investigation agents who investigated the criminal case was biased because he allegedly knew Harkins, late father, a Colby banker, at the time.

About 20 people were in the courtroom today as the hearing started.

Thursday's hearing is expected to begin at 9 a.m.

# Faculty focuses on need for staff discussion

By Tisha Cox  
Colby Free Press

The Colby School Board Monday heard a curriculum presentation on collaboration time and testing incentives.

Curriculum Director Diana Wieland said the faculties at all three schools have discussed a need for more collaboration time. They need to continue dealing with assessments and school improvement.

High school Principal Rocky Robbins suggested five or six days a year with late starts to give the faculties time to get together for meetings. He said starting school at 9 a.m. would give the staffs enough time to get their goals accomplished.

"We're not wanting a speaker to come in," Wieland said. "We're truly speaking about data analysis."

She added they need interaction and collaboration.



Tod A. Pabst

Grade school principal Terrel Harrison said meeting helps make the most of opportunities.

She added the building principals should be involved and lead the discussion. Harrison would also like to see an hour through the school year.

Colby Middle School Principal Robb Ross said they have a 40-minute late start once a week, and it's been successful. Students use the time to read, giving the faculty a chance to work on their goals.

"I really feel like this is going to be essential," he said.

Board member Joel Powell asked how it would work.

Robbins said teachers would still come in at 7:45 a.m. but students would come at 9 a.m. instead of the current 8:10 a.m.

Robbins said they are also testing accountability and motivators. If students get good test scores, they will be rewarded.

"Teachers will have discretion on that," he said.

Possibilities include giving students a day off of school. Rewards would not be the same in each building.

"In a way, we're asking them to earn it," he said.

... and the band played on



TISHA COX/Colby Free Press

Colby School District band students rehearsed before the second annual Music in Our Schools concert. Almost 350 students performed at the event, which ended with a mass performance of "America the Beautiful." See page 5 for more information.

# Commissioners learn emergency medical technicians needed

By Jan Katz Ackerman  
Colby Free Press

Thomas County medical service needs help helping others.

Emergency Medical Service Director Ken Gatlin and assistant director Marty Rinehart, told Thomas County Commissioners Monday the emergency medical service department has dwindled to about

20 emergency medical technicians.

"At one time we had more than 40 EMTs," Rinehart said.

The service is staffed with all volunteers with the exception of Gatlin and Rinehart. Gatlin said he's currently teaching an EMT class with hopes of acquiring more volunteers.

"I'm working on the issue right now," he said.

"Thanks for keeping us in the loop," Evans said, "and keeping us informed."

"If you need to advertise, OK, but someday we need to bite the bullet and think about a full-time emergency medical service."

"We just need to think outside the box and I appreciate the heads up," Steele said.

Gatlin presented the board prices to consider regarding the continued lease of the

county's 10 oxygen bottles or purchase of them.

"I think buying the bottles is more reasonable," Gatlin said.

The county currently rents 10 oxygen bottles for 27 cents per bottle per day at a cost to the county of \$85 per month. The commissioners are considering one-, five-, and 10-year leases in the amounts of \$550, \$1,600 and \$1,900, respectively. Purchas-

ing bottles would cost \$2,180.

"Kenny is there a stated life per bottle," Steele asked.

Gatlin said there was no predetermined life of an oxygen bottle, but that each bottle was electrostatic checked "every so often."

"It seems we haven't done all our homework," Steele said.

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# Heading for nationals

The Colby Community College Lady Trojans celebrated after their win over Barton County Community College Tuesday. Colby College's women's team is heading to nationals for the first time in school history. The national tournament starts Tuesday, and will be held at Salina's Bicentennial Center. For more coverage, see the sports page.



DEB SCHWANKE/Colby Community College

# Gambling bill sent to Senate for debate

TOPEKA (AP) — A day after one Senate panel endorsed a school finance package, another committee advanced a gambling bill Tuesday that leaders hope will cover the bulging education price tag.

The Senate Federal and State Affairs Committee voted 4-3 to advance the casino and slot machine proposal, without a recommendation on whether it should be passed. Senators are expected to debate the issue later this week, but it's anyone's guess whether supporters can generate the 21 votes needed for passage.

"It's going to be an extremely close vote," said Senate President Steve Morris, R-Hugoton. "Right

now, I think we have somewhere between 20 and 21 votes."

Senators haven't passed a gambling bill in more than a decade, although the issue has been debated repeatedly. Committee Chairman Pete Brungardt said he was "quietly confident" it will pass this year.

"I feel good about it. The only vote that counts is the final one, and we should know by the end of the week," said Brungardt, R-Salina.

But the gambling bill advanced only after Sen. Roger Reitz, an opponent of the proposal, declined to vote. That avoided what would have been a tie vote, which would have

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