



# COLBY FREE PRESS

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## Rapt attention



TISHA COX/Colby Free Press

Tyler and Billy Bradley, (from left to right) Kate and Nathan Pardee, Brittany Menges and Linsey Elling listened to a story during a special storytime session Thursday at Pioneer Memorial Library.

The children wore their pajamas and brought stuffed pets as part of the evening, and also worked on craft projects. The session was part of the library's summer reading program.

## Convicted murderer's retrial denied

By Jan Katz Ackerman  
Colby Free Press

A local judge has denied Tod Pabst's claim he not once, but twice, did not get a fair trial when convicted of murdering Colby resident Phoebe Harkins in March 1997.



T. Pabst

Pabst continues to claim Harkins' death was an accident and sued the state trying to get a ruling which could ultimately get him out of prison.

District Judge Glenn Schiffner late Wednesday afternoon filed a memorandum decision which he said has the same effect as a journal entry in a civil suit Pabst filed against the state in 2003.

For the past three years, the case has been bantered back and forth between attorneys representing Kansas and those representing Pabst. Landing finally on the desks of Assistant Attorney General Jared S. Maag and Wichita attorney Richard Ney, representing Pabst, Schiffner denied Pabst's claim he was inadequately represented in his second trial.

The first thing Schiffner addressed in the memorandum was that Pabst's civil suit had passed the statute of limitations for filing it.

"It is, therefore, the finding of this court that the petitioner's amended petition filed on July 15, 2005, was untimely in that it falls beyond the limitations period set forth in (state statute)," Schiffner said.

State statute allows defendants one year to file petitions such as the one Pabst filed against the state. His initial petition was filed on the last permissible day, Oct. 15, 2003, but an amended petition was filed twelve and one-half months past the last permissible day.

Tried first in Colby, Pabst was convicted and sentenced for Harkins' premeditated murder. He appealed his conviction claiming prosecutorial misconduct, saying Assistant Attorney General Steven Maxwell of Topeka made prejudicial remarks against him. That conviction was reversed Feb. 11, 2000, setting in motion a second trial in the case.

A change of venue to Ellis County, Pabst was tried and convicted at second time in Hays. He was sentenced to 25 years in prison and is currently in Lansing Correctional Facility in Lansing. According to the Kansas Department of Corrections, the first opportunity Pabst will have at parole is March 31, 2022.

Documents on file in Thomas County District Court in Colby list 14 reasons Pabst believes he is being unlawfully detained in prison.

One of Pabst's major claims is that his right to a fair trial was violated when the state hired a special counselor, Pedro Irigonegaray, to assist in trying him.

Schiffner's ruling neither way states Irigonegaray's participation in the second trial presented a conflict of interest. It does say that during a March hearing in Colby regarding the civil suit, both Irigonegaray and Maxwell testified that at no time was Irigonegaray in charge of the proceedings. Schiffner also said if Pabst objected to Irigonegaray assisting the state he should have raised the complaint during his trial, not after it.

Prior to being hired by the state, Irigonegaray represented members of Harkins' family in civil litigation against Pabst, including an adoption process of he and Harkins' then 5-year-old daughter of whose his parental rights have been severed.

"That for the second trial was, for the most part, a mirror image of the first trial," Schiffner wrote in the ruling. "The only differences were that Mr. Pabst had different counsel, that Mr. Irigonegaray assisted with the prosecution; that Mr. Pabst's testimony from the first trial was read into the record; and that Mr. Pabst presented his won expert in the second trial."

Pabst also claims he was submitted to double jeopardy for having been tried twice for the same crime and had ineffective counsel when being tried.

Schiffner denied both of these claims, as well as the ones asserted by Pabst that he certain witnesses either lied or were not credible or that law enforcement or investigators failed in their jobs. He also believes counsel which defended him in during the appellate process failed because jurors witnessed him being unshackled before entering the courtroom.

"The court concludes that Mr. Pabst had counsel, was tried by an impartial jury, and that the strong presumption in the law is that any other errors that may have occurred are subject to the harmless error analysis," Schiffner said.

Ney could not be reached on whether Pabst plans to appeal.

## New head coach hopes to build success

By Tisha Cox  
Colby Free Press

Colby High School's new head wrestling coach is ready to take charge.

Matt Sims was approved as the head coach at the Colby School Board meeting Monday.

He replaces Mitch Beims, who is leaving Colby to become the activities director/assistant principal at Holton High School in Holton.

Sims said he is excited to become the head coach, but will miss Beims.

"A lot of things Mitch did I'm going to keep doing," he said. "He's been a big help to me already."

Sims has been an assistant wrestling coach at the high school since the 2003-2004 school year. He started teaching in the Colby School District in January, 2003, and



M. Sims

teaches eighth grade math at Colby Middle School.

He said becoming head coach is a great opportunity.

"It's my chance to become more involved and have more influence with the kids. We have great kids in Colby," Sims said. "That's the reason I'm excited about the job."

This is his first head coaching job, and he wants to continue the success Beims began.

"Hopefully we'll build on a good foundation," he said.

Originally from Stratton, Colo.,

Sims graduated from high school in 1998.

He attended the University of Nebraska at Kearney, graduating in December, 2002.

Beims coached the Eagles to fifth place at the state wrestling tournament last season, and senior Cole Garcia won a state title in his weight class.

Beims said last month in an interview he was leaving the program stronger than when he first came to Colby, and said much probably won't change with the program.

## Two dead as death toll rises from heat wave

WICHITA (AP) — At least two Wichita men have died from heat-related causes since the start of the heat wave, and police said two other deaths Thursday may also be due to temperatures that reached 108 degrees here by late afternoon.

An autopsy confirmed that a 64-year-old homeless man whose body was found Thursday morning in a Wichita park died from heat exposure, said Wichita Police Capt.

Randy Landen. Police were called to that case because the man had superficial trauma to the side his head, apparently from falling.

Also Thursday, Via Christi Medical Center confirmed that a 60-year-old man brought to the hospital died Wednesday from heat-related causes, spokeswoman Roz Hutchinson said. Rescue workers found the man unresponsive outside his house Wednesday evening. His home did

not have air conditioning.

Police typically do not investigate deaths when there are no suspicious circumstances, but the department is aware of at least two other deaths Thursday in which the heat may have played a role, Landen said.

Among them is a 70-year-old man who was found lying in his front yard Thursday in a southeast Wichita neighborhood, police de-

TECTIVE Heather Bachman said.

Another possible heat-related death is that of a 58-year-old man suffering from medical problems whose body was found Thursday in his Wichita home.

Those two deaths cannot be officially attributed to the heat until the Sedgwick County Regional Science Forensics Center does an autopsy, spokeswoman Angie Duntz said.

## Thousands of young people influenced by Kansas 4-H group

By John Van Nostrand  
Colby Free Press

Subtract the Kansas public school system and you still have one organization that impacts tens of thousands of youth across the state — 4-H.

Thomas County 4-H members Brenda Wilson and Kelly Gerstner told the Colby Rotary club Tuesday about the influence 4-H has on youth. Kansas 4-H only trails the state's public school system in having the most youth involved. Wilson and Gerstner said area youth should be appreciative of how easy it is to get enrolled in 4-H, the century old organization that teaches youth about agriculture, home skills and other aspects.

"There is a waiting list to get in in other towns," Gerstner said. Thomas County has about 140 members and they are broken up among five clubs.

Youth in 4-H range in age from 7 to 19. Gerstner, who is secretary of her group, Abilene Hustlers, told the audience 4-H offers a variety of

activities from daycamps held in Colby to bigger, longer conferences held at places like Kansas State University.

Thomas County 4-H members also participated in a canoe and high-ropes lessons in Nebraska. But 4-H's signature projects and prime time of the year are approaching with the Thomas County Fair Aug. 1-5. Gerstner, 16, who has participated in those other 4-H events, is preparing to show her first hog at this year's fair.

"You are never too old to start a new project," she said. And Gerstner has the help. 4-H offers a showmanship clinic for those showing fair animals for the first time. 4-H members are required to keep track of their projects, progress with them and plans for the future in a record book. "Every kid dreads these," Gerstner said. "The record book shows everything done by a member and goals."

"It shows you do the work, not your parents," Wilson said. Despite the need to keep track of every detail related to projects, Gerstner said

work can pay off. 4-H holds contests for the best kept record book and a panel of judges reviews the entries. Members can win state awards with their record books.

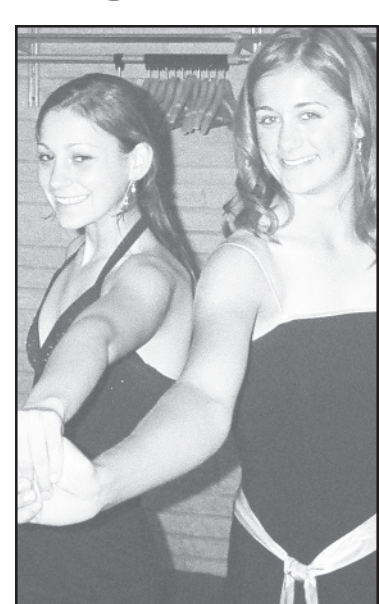
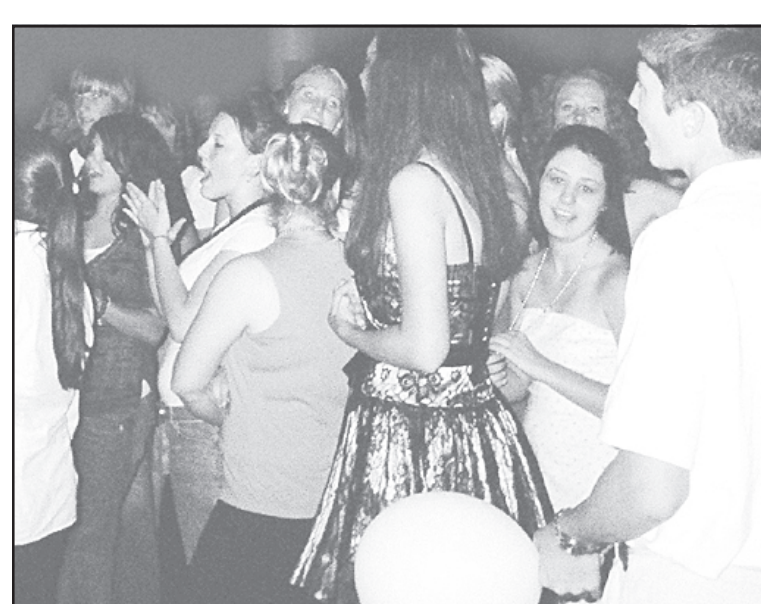
Thomas County 4-H supervisor Joe Liebbrandt said he has paid attention to what he has been writing in his books.

He said this year there has been a growth in the number of 4-H members and that has reflected in 25 more hogs, 23 more sheep and 15 more goats registered to be shown at the Thomas County Fair.

Gerstner said despite the potential to have year round 4-H work, that does not mean it takes time away from family. In fact, it can add to family time.

"Yes, 4-H can keep you busy but there is fun in the end and there can be good family time. My dad taught me some woodwork and my mom knows home ec, so you share your skills with the family," she said.

Families with multiple children are key to the growth and future of 4-H groups. Wilson and Gerstner said it is common for a child in a



JOE LIEBBRANDT/Colby Free Press

A teen mixer was one of many activities at 4-H Discovery Days recently. The event was held at Kansas State University in Manhattan. 4-H member Kelly Gerstner talked about it, and other 4-H activities during the Colby Rotary luncheon this week. **RIGHT:** Dancing was one of many classes available to Gerstner and other Colby 4-H members during Discovery Days.

family to join 4-H because an older sibling is, or was, a member. "That is a strong recruitment tool," Liebbrandt said. "Word of mouth is too."

Wilson, 17, and treasurer of the Solomon Valley Club, said despite the various backgrounds 4-H members have, it has not caused a prob-

lem for the group's cohesiveness. "It teaches you life skills and leadership," she said. "4-H groups can be pretty close knit."