

# Daily Nebraskan

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## INSIDE WEDNESDAY

### SPORTS

■ NU soccer team wins first game, Page 9

### ARTS & ENTERTAINMENT

■ Specialty shop lights up Haymarket, Page 12

PAGE 2: China ready to discuss human rights

**AUGUST 31, 1994**

## Baldwin's doctors say supervision not needed

By DeDra Janssen  
Senior Reporter

A judge will decide Friday whether former NU football player Scott Baldwin can be released from the court's supervision.

Lancaster County District Court Judge Paul Merritt heard testimony Tuesday from Baldwin's doctors and friends, who said he should be released from the court's supervision.

Baldwin has been under the eye of the court since 1992, when he was found not responsible by reason of insanity in the beating of Lincoln resident Gina Simanek.

He initially participated in an outpatient treatment program for his mental disorder. He later was committed to the Lincoln Regional Center after he was shot following a struggle with Omaha police that left him partially paralyzed.

Baldwin was transferred to Madonna Rehabilitation Hospital on Christmas Eve 1993 to participate in an inpatient treatment program. He has participated in an outpatient treatment program with the hospital since April.

By court order, Baldwin's treatment is supervised by the state, which chooses Baldwin's doctors and follows his progress. Baldwin is not allowed to leave Nebraska.

Scott Moore, a private physician who specializes in psychiatry, said he completed a psychiatric evaluation of Baldwin this month.

"At the time I saw Mr. Baldwin, he was not a danger, neither to himself or anyone else," Moore said. "As long as he remains on treatment, he will likely not be a danger in the foreseeable future."

But Moore said that if Baldwin stopped the treatment program, he would become dangerous rapidly.

John Shuart, director of psychology at Madonna, said Baldwin understood the need to stay on medication for his mental disorder.

"He felt initially he did not need the medication," Shuart said. "Now he realizes that was a mistake."

Baldwin is committed to the treatment program whether he is under court supervision or not, Shuart said.

Baldwin would be better off without court supervision, he said.

But County Attorney Gary Lacey argued that Baldwin should remain under court supervision for at least one year to determine whether his outpatient treatment program was successful.

See **BALDWIN** on 8

## Term limits again will be on Nebraska's election ballot

By Matthew Waite  
Senior Reporter

Secretary of State Allen Beermann said Tuesday that he would put six issues, including term limits for elected officials, before Nebraskans in the Nov. 8 election.

Beermann said his office and the county commissioners in Nebraska had verified 104,000 signatures on a petition to put term limits on the ballot. Nebraskans for Term Limits submitted 131,000 signatures.

Investigations into fraudulent signatures continue in Lancaster, Washington, Sarpy and Douglas counties, he said.

Nebraska voters approved a term limit law in the November 1992 election. But the Nebraska Supreme Court struck down the law this summer, saying the petition drive that got the measure to the ballot didn't have enough valid signatures.

The investigations most likely will have no serious effect on the petition, Beermann said.

The Nebraska Legislature has submitted these issues for the ballot:

- Whether to authorize off-track betting on horse races.
- Whether to eliminate a state statute that requires all bills to be read in their entirety to the Nebraska Legislature before final passage.
- A measure that would give the victims of crimes certain rights.
- Whether to create a state commission to settle tax disputes.
- A measure that would allow for the increased use of dispute resolution through arbitration and mediation to cut down on the use of lawsuits.

Grand Island attorney Denny Busick said he would be challenging those five issues in court on the grounds that the legislature was too late in filing the issues.

The five measures were filed two days after the deadline for ballot issues, Busick said, and thus are invalid.

The dispute, Busick said, arises from the method used to calculate the day the deadline should be set. He said a statute required the date to be set four months before Election Day.

Busick said the statute also required that Election Day not be counted in the determination of the deadline. He said according to his interpretation of the statute, the deadline would be July 6. By the attorney general's interpretation it would be July 7.

The measures officially were stamped July 8.

"So even using his method he is a day late," Busick said.

If the measures were initiatives from the people of Nebraska rather than from the Legislature, Busick said a little latitude should be allowed. But close is not good enough when it comes to elected officials, he said.

A suit attempting to block the measures from getting to the ballot will be filed in the Nebraska Supreme Court later this week, Busick said.

He said that if the Supreme Court wouldn't accept the case, he would file in Lancaster County District Court.

Beermann said Busick would have little success in the matter, because the court had ruled for the state in similar cases.

## Federal judges listen to arguments on Otey's appeal

### Due process was violated, killer says

By Craig Horst  
The Associated Press

KANSAS CITY, Mo. — The demeanor of a panel of federal judges gave little indication on Tuesday that convicted murderer Harold Lamont Otey would avoid becoming the first inmate put to death in Nebraska in 35 years.

Three judges of the 8th U.S. Circuit Court of Appeals listened to an hour of arguments in what seemed to be a last-ditch appeal for Otey, convicted of the 1977 rape and murder of Jane

McManus of Omaha.

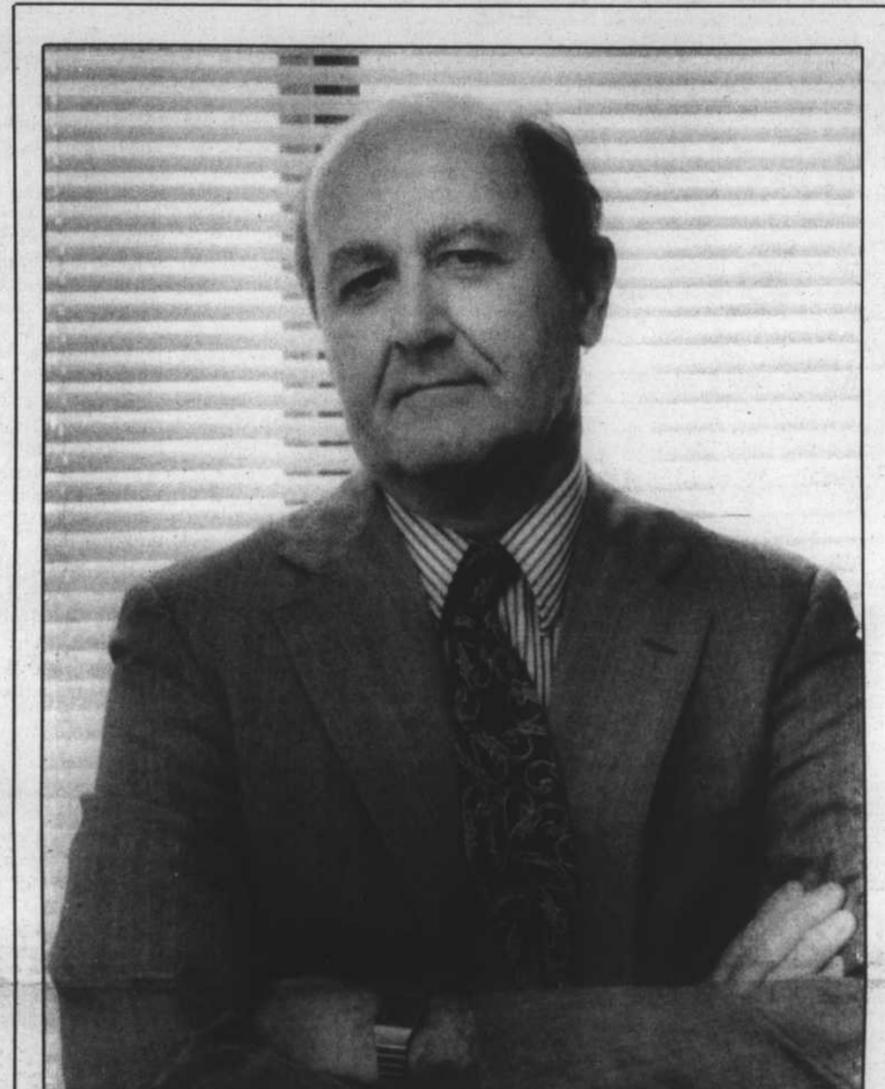
A similar panel had decided years earlier it did not have jurisdiction in the case and sent it back to a federal judge in Lincoln. The panel indicated at the time that if it had decided to rule, it would have rejected Otey's appeal.

Otey's guilt or innocence is not an issue.

He is seeking a life sentence instead of death and says his hearing for clemency was tainted because the state attorney general is one of the three people who make up the Nebraska Board of Pardons.

Otey, who is scheduled to die in the electric chair on Friday, says his right to due process was violated because the state's top prosecutor sits

See **OTEY** on 8



Damon Lee/DN

Brian Foster is the new dean of the College of Arts and Sciences at the University of Nebraska-Lincoln. Foster comes to UNL this year from Arizona State University.

## New dean setting goals

By Jamie Karl  
Staff Reporter

Just because Arts and Sciences Dean Brian Foster is the new kid on campus, don't expect him to just sit back and watch what's going on.

Foster is entering only his second week at the University of Nebraska-Lincoln, but he has his sights set on the college's future.

"To be successful, we must identify a set of programs — instructional, research and service programs — within the college with which we can be competitive anywhere."

Foster replaces John Peters, who resigned last year to take a job at the University of Tennessee at Knoxville. Foster was dean of the graduate college at Arizona State University for eight years before coming to Lincoln.

"My vision is to identify those areas of strength and start to build for real excellence, real international prominence. At the same time, we must focus on what we can do to

serve the needs of the state in arts and sciences."

That commitment was what caught the eyes of UNL officials who hired Foster. Joan Leitzel, senior vice chancellor for academic affairs, said in May when announcing Foster's appointment.

"His extensive administrative experience, his scholarship and his vision of the role of arts and sciences within a major university were among the things that impressed me," Leitzel said.

Foster received both his master's and doctorate degrees in anthropology from the University of Michigan. He taught anthropology at the State University of New York at Binghamton before moving to Arizona State, where he served as chairman of ASU's anthropology department.

Foster said his experience in anthropology would make him a good arts and sciences

See **FOSTER** on 8

### Circuit court need not rule on issue

By Brian Sharp  
Senior Reporter

The three-judge panel that listened to arguments on Harold Lamont Otey's civil rights appeal Tuesday are not obligated to rule, a UNL law professor said.

Mark Eskridge, citing the 1991 Supreme Court case *McCleskey vs. Zandt*, said that under that ruling, Otey could be executed even though appeals were pending.

"In essence, really, they have 48 hours."

Eskridge said. "They can delay all they want. When business is done Thursday ... it's over."

Judges on the 8th Circuit Court of Appeals listened to arguments in Otey's civil rights appeal for about an hour Tuesday in Kansas City, Mo. The appeal contends that the Board of Pardons gave Otey an unfair clemency hearing.

Otey was convicted of the 1977 rape and murder of Jane McManus of Omaha. He has been on death row, fighting his execution for 16 years.

Mike Gooch, assistant public defender, said he thought the 8th Circuit Court would choose to rule on the appeal.

"I would be shocked if they would just put it

See **COURTS** on 6