

# High Court won't hear appeal over 'malice'

OMAHA (AP) — The state hit a dead end Tuesday in its efforts to change a court ruling that has entitled some convicted killers to walk free.

Without comment, the U.S. Supreme Court refused to enter the fray over the need for the word "malice" in the second-degree murder case of Dennis Ryan.

The Ryan case is one of more than a dozen second-degree murder cases that have been ordered to be retried because of jury instructions or charges that did not include the word "malice." The Nebraska Supreme Court ruled that "malice" was needed, even though the Legislature removed the word from state law in 1979.

At least 15 people have been released from prison in the last year in appeals after the ruling. Seven of them had been sentenced to life in prison.

Assistant Attorney General J. Kirk Brown said the U.S. Supreme Court's refusal to hear the case probably ends the state's appeals on the issue. He estimated the ruling affects about 130 second-degree murder cases tried in the 15 years between the time the law was changed and the court first ruled on the issue in 1994.

To change the situation, Brown said, the Legislature would have to reassert its authority in writing laws or the state Supreme Court would have to reverse itself.

"The third option is that the voters do not choose to retain one of the four members of the majority that supported this decision," Brown said.

One of the members of the narrow state Supreme Court majority

— Supreme Court Judge David Lanphier — faces a retention vote Nov. 5. A group has organized to campaign against his retention, partly because of the malice ruling.

Brown said he had no official position on Lanphier's retention and noted that he cannot vote because he does not live in the judge's district.

Meanwhile, court hearings already have begun in Ryan's retrial on a second-degree murder charge in the 1985 torture-killing of James Thimm. Prosecutors said Ryan's father, Michael Ryan, was the leader of a cult that lived on a southeast Nebraska farm near Rulo where Thimm was killed. Thimm was a cult member who had fallen out of favor.

Prosecutors said he was tortured by cult members for more than a month before Dennis Ryan, then 15, shot him.

The teen stood trial on first-degree murder but was convicted of the lesser charge of second-degree murder and was sentenced to life in prison. His father was convicted of first-degree murder and sentenced to death.

The Nebraska Supreme Court ruled 4-3 in February that Dennis Ryan was denied a fair trial because jurors were led to believe they could find him guilty of second-degree murder without proof that he acted with malice. For second-degree murder, the jury was told it must find that Ryan killed Thimm intentionally but without premeditation.

"For over a century, Nebraska, by statute, defined second-degree murder as the killing of another person purposely and maliciously, but without deliberation and premeditation," the state court said.

# Rally yielded positive results

Nebraska black leaders say Million Man March's spirit still shines

OMAHA (AP) — Several of Nebraska's black community leaders have seen good come from the Million Man March in Washington, D.C., a year ago.

Organizers said the march was intended to mobilize black men and restore them as heads of their families and as gatekeepers of their communities.

"Never in the history of this country have black men ever been portrayed in a positive light," said Melvin Muhammad, coordinator of the Nation of Islam Omaha Study Group.

"And because of that march, all throughout the country and all around the world, the myth that black men are the thugs of society has been removed."

Wednesday marked the first anniversary of the Oct. 16 march, which was organized by Louis Farrakhan, leader of the Nation of Islam. The event drew black men from across the United States.

Muhammad said he has experi-

enced unity in the past year among black leaders who recently rallied to begin the Black United Fund of Nebraska for the economic empowerment of black people.

Leon Lewis, a coach for the North Omaha Bears youth football team, also has seen black fathers become more active in their children's lives. Vernon Staton, Mad Dads youth director, has been visited by gang members who

want to put down their guns and contribute something positive to their community.

Lewis and Staton also participated in the Million Man March with Muhammad and credited the event with what they have seen in their community. The spirit of the march spread to Omaha, they said, and some black people are beginning to reap the benefits.

MELVIN MUHAMMAD  
Nation of Islam Omaha Study Group

# AKsarben overseers back off-track bets

OMAHA (AP) — A group that oversees racing activities at AKsarben voted to spend \$285,000 to promote off-track betting and to pay some of the expenses of a petition drive seeking a statewide vote on expanded gambling.

Douglas Racing Corp. voted 4-2 Monday to take the money from an account set up to hold prize money for live horse racing at the Omaha race-track.

Since April, RaceCo has approved the use of more than \$400,000 out of that account for off-track betting and the casino petition drive.

RaceCo board member Brad Ashford voted against the latest shift

of the money. He called Monday's appropriation "demonic."

"This is public money being spent on casino gambling without any public vote," Ashford, a former state senator, said Tuesday. "It's undemocratic ... this usurpation of power by a small, unelected board."

Board attorney Howard Hahn said the money belongs to the horsemen, not the public. He said research indicated the money was "kind of like" a trust account in which RaceCo held the money for the horsemen.

"So all that has happened here is that the horsemen have asked for some of their money," he said.

Ashford said the County Board

should dissolve RaceCo, which he said has gone beyond its powers in an effort to drive public policy.

RaceCo officials said the purse account was not public money.

The horsemen's purse is an account used for paying winning horse owners during live horse racing. With no live racing at AKsarben this year, the purse account is dormant.

A proposal to make off-track betting legal is on the Nov. 5 ballot. A judge heard arguments Tuesday in Lincoln on whether an initiative sponsored by horse-racing interests to allow casinos at or near Nebraska's racetracks should be placed on the ballot.

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