

Death sentence questioned

Bjorklund's attorneys file motion for new jury trial

By **JOSH FUNK**
Senior staff writer

Roger Bjorklund should be given a new trial because the jury was influenced by a prayer with the judge, defense attorneys said Monday.

Attorneys also said Bjorklund's death sentence was too harsh for the 1992 murder of University of Nebraska-Lincoln student Candace Harms.

On Sept. 22, 1992, Harms, 18, was abducted near her boyfriend's house. She was sexually assaulted, strangled and shot.

The Nebraska Supreme Court heard arguments on a motion for a new trial and Bjorklund's direct appeal.

Bjorklund's attorneys said that a prayer conducted by Lancaster County District Court Judge Donald Endacott corrupted the process.

"This goes beyond impartiality," Deputy Lancaster County Public Defender Scott Helvie said. "Because this shows the jury could turn to God for guidance in their decision."

Helvie said that when Endacott came into the jury room before the trial and asked them to join hands and pray, he made it possible for jurors to use their own views of God to influence their verdict.

But Chief Deputy Lancaster County Attorney John Colburn said the judge's prayer was a harmless error.

"Every one of the jurors testified that the prayer did not affect their impartiality in any way," Colburn said.

The prayer issue was examined by Lancaster County District Court Judge Paul Merritt Jr. on the original motion for a new trial. Merritt found that the prayer, while inappropriate, did not influence the verdict.

Defense attorneys also said that death was not an appropriate sentence for Bjorklund because his accomplice, Scott Barney, was sentenced to life in prison and a mitigating factor was applied incorrectly.

Barney cooperated with prosecutors, and he led police to Harms' body.

"We had two individuals eligible for death, and it was imposed differently," defense attorney Alan Stoler

said. Assistant Attorney General Kirk Brown said the court can only compare Bjorklund's case to other death cases because of how the aggravating and mitigating factors are weighed.

"The court can't compare cases with no aggravation to cases that do have it," Brown said. "Therefore this cannot be compared to Barney's sentence."

In their motion for a new trial, defense attorneys raised issues that prosecutors said should be addressed in the direct appeal, which was also before the court Monday.

In his argument, Brown tried to shift the focus back to Bjorklund's crimes and the reason he was sentenced to death.

"We've been talking a lot about what happened to Roger Bjorklund," Brown said. "But it was Roger Bjorklund who first sexually assaulted Candi, who strangled Candi, and it was Roger Bjorklund who shot Candi several times in the head."

"This was every woman, every parent and every person's nightmare come to life."

Legislature

Guard tuition bill passes 1st test

By **JESSICA FARGEN**
Senior staff writer

A bill that would pay for 100 percent of tuition for National Guard college students passed the first round of debate Monday, but several legislators warned that a tight budget may in the end kill the bill.

The National Guard currently pays for 50 percent of its recruits' tuition, down from 75 percent tuition reimbursement in 1992. The Guard is now about 1,000 members short of its maximum strength, resulting in less federal money and the closure of three Nebraska armories.

Many potential Guard recruits may be opting for 100 percent tuition reimbursement offered at businesses, said Nickerson Sen. Ray Janssen, who sponsored LB243.

Other Nebraskans are recruited by National Guard branches in Kansas, Oklahoma and North Dakota that offer 100 percent reimbursement programs. Iowa and Colorado also have laws pending that would boost tuition reimbursement. Almost 200 Guard members attend the University of Nebraska-Lincoln.

Despite the need to draw more Nebraskans to the Guard, Lincoln Sen. Chris Beutler cautioned senators of the bill's large appropriation — more than \$1 million over two years for 100 percent reimbursement.

Legislators have \$2 million from the state's budget to appropriate — LB243 requires about half of that, said Beutler. That would leave about \$1 million for 48 other appropriation bills — A-Bills — that receive funds from the \$2 million.

"Governors figure out how they want to spend all the money, and there's a pittance left to A-Bills," he said. "It's a good cause, but there's going to be a lot more A-Bills that are going to represent a lot of good causes, and you're going to want to vote for them."

"We don't want half the money we want to spend to be spent on this," Beutler said.

Beutler's amendment to increase reimbursement to 70 percent was voted down by senators. Debate lasted nearly two hours before senators advanced the bill 29-10.

Lincoln Sen. David Landis opposed the bill saying the increase should be temporary — possibly limited to several years. If the Guard increases members in the next few years, it would

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DAVID LANDIS
Lincoln senator

still receive full tuition, but may not need it as an incentive anymore, he said.

"I hope you know what you are doing when you pass this bill with no strings attached," he said.

And once the Guard members receive full tuition reimbursement, they will not want to give it up, he said. "It is really hard to take a credit out of anyone's hands," he said. "This is a \$1 million entitlement."

Janssen said the number of students who could use the 100 percent tuition reimbursement would be limited to 1,200. After that, payments would be pro-rated, he said.

Plattsmouth Sen. Roger Wehrbein, chairman of the Appropriations Committee, said the Legislature should advance the bill but expect to chip away at it when the budget is presented in May.

"Another \$900,000 hit is going to be very difficult late May," he said.

But that money goes through a revolving door in Nebraska — the money paid out directly benefits Nebraskans who join the Guard or receive their services, Janssen said.

"Any of the money directed toward this will come back to us," Janssen said. "It never leaves the state. It's always here."

Lincoln Sen. DiAnna Schimek

rose in strong support of the bill, praising the bravery and self-sacrifice of Guard members.

"We ask these folks to put their lives on the line time and time again," she said. "I think this is a relatively small investment for what we get in return."

Lincoln Sen. LaVon Crosby also said some senators were neglecting to remember the importance of the Guard during natural disasters such as Lincoln and Omaha's paralyzing snow storm last October during which the Guard helped out.

"We forget why we had them until something happens, until there is a disaster," Crosby said.

A legislative aide for Janssen said the senator would probably compromise and amend the bill to put an appropriation limit or a temporary clause in the bill as suggested during Monday's debate.

A tight appropriations budget, not a lack of commitment to the Guard, will be the deciding factor in the passage of this bill, Wehrbein told senators.

"I think we do have a strength problem with the National Guard," Wehrbein said. "That's my philosophy, and I think we have to do something about it."

"You are going to have some difficult decisions come May."

Post-graduate interns could benefit from bill

■ LB366, if passed, will allow psychology interns to charge for their services.

By **SHANE ANTHONY**
Staff writer

A bill that would create a provisional license to practice psychology advanced Monday.

In a 7-0 vote, the Health and Human Services Committee moved LB366 to general file. If passed, proponents said, it would allow post-doctoral intern psychologists to charge for their services under their own licenses. That ability would help define such internships, one proponent said.

Laurel Van Ham, a Lincoln psychologist who received her license in 1994, said post-doctoral interns weren't sure of their status.

"They're not a psychologist. They're not a student. They're sort of in a never-never land," she said.

Omaha Sen. Deb Suttle, who introduced the bill, said most medical professions offer provisional licenses while doctors are learning.

In her testimony before the com-

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mittee Thursday, Stephanie Snell agreed. She is completing her internship for a doctoral degree in school psychology in Lincoln. After receiving her degree, she said, she must complete a one-year internship.

Most health-care providers will pay people with masters degrees in social work for their services, she said, but they won't pay people with doctoral degrees in psychology while they are completing requirements toward a license.

"If you compared the field of psychology to other fields such as medicine and social work, professionals from these fields are at a level of ability to be reimbursed far sooner than we are in the field of psychology," she said.

In other news, the committee advanced several bills, including:

■ LB211, a bill that would prohibit smoking in the Capitol.

■ LB17, with amendments based on LB56 and LB71. The bill would provide access to medical records for patients and former patients.



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