

Judge rules against sheriff in Teena case

By Will O'Bryan

A district court judge in Richardson County, Nebraska, ruled Sept. 24 that the county sheriff who investigated the alleged rape and beating of Brandon Teena, a 21-year-old transsexual who lived as a man, had reasonable and probable cause to arrest two alleged assailants before they murdered Teena and two others.

But the sheriff did not arrest the two men, and the ruling came in a civil lawsuit filed against former Sheriff Charles Laux and Richardson County for wrongful death filed by Teena's mother, JoAnn Brandon. The trial began Sept. 22; Judge Orville Coady issued the ruling Sept. 24.

While the judge ruled that Laux had cause to arrest the accused attackers, Marvin Nissen and John Lotter, prior to Teena's death, Brandon's attorney, Herbert Friedman, emphasized that the ruling is not a guarantee that the judge will award any damages to Brandon. He said, however, that the ruling does bode well for Brandon's claim.

Brandon's lawsuit claims that Sheriff Laux and the county were negligent for not arresting two men after they allegedly raped and beat Teena on Christmas Day 1993, the *Omaha World-Herald* reported. Teena and two others were killed six days later, and Nissen and Lotter were later convicted of the murders.

"Former Richardson County Sheriff Charles Laux's bias failed to protect Teena Brandon," Friedman told the court. "He was so prejudiced with the girl — so repulsed — he was going to let her swing in the breeze."

Sheriff Laux interviewed Teena after she was sexually assaulted and portions of that interview were recorded and played back at the trial. Laux now works as a Richardson County commissioner and truck driver.

The *World-Herald* noted that the tape recording revealed that Laux made statements indicating he could not believe Teena's assertion that she had never had sexual intercourse prior to the alleged attack.

Friedman told the *Blade* that a portion of damages sought are for emotional distress caused by the interview.

"It was a very brutal interview," Friedman said. "It was brutal enough that the chief deputy walked out of the interview."

Friedman said that he's worked on cases dealing with homosexuality and sexual abuse, but that this is his first case involving transgender issues, explaining that transgender issues are relatively new in Nebraska.

"There can't be more than 15 [transgendered people] in the state! We had a psychologist there to testify what a transgender person was," he said.

Nissen and Lotter were convicted in the deaths of Teena and two others. During his murder trial, Nissen testified that he and Lotter killed Teena Dec. 31, 1993, to prevent Teena from testifying against them. The two men then killed Lisa Lambert and Phillip DeVine, who were at the scene, because they were potential witnesses to the murder, according to the *World-Herald*. Nissen was sentenced to life in prison; Lotter to death.

As executor of Teena's estate, Brandon seeks unspecified damages, in addition to \$6,200 for funeral and burial expenses.

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