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Montana governor commutes Keith's death sentence

HELENA, Mont. (AP) — Gov. Ted Schwinden today granted clemency to condemned killer David C. Keith, accepting a Board of Pardons recommendation to commute Keith's death sentence to life in prison without parole.

Schwinden, who leaves office next Monday, said his decision was based on his review of Keith's file, a meeting with Keith at the state prison Wednesday and a telephone conversation with the family of the victim, Harry Lee Shryock Jr. of Polson.

Keith, 32, originally from Spokane, Wash., was scheduled to die by

lethal injection Jan. 29 and would have been the first inmate executed in Montana in more than 45 years.

The governor said he met with Keith for 30 to 45 minutes in an unannounced visit to the state prison. "I certainly sound a deep sense of remorse," said Schwinden, a Democrat. "He is a very strong Christian."

When asked why he wanted to commute Keith before acting on the clemency request, Schwinden said, "Would you want to make a decision on whether a man lives or dies without looking him in the eyes?"

The governor was reluctant to discuss the specific reasons for his decision, but he said it was based on the statutory criteria in clemency cases — the social condition of the inmate and circumstances surrounding the crime.

His recommendation for clemency, the Board of Pardons noted Keith is partially paralyzed and nearly blind from gunshot wounds, has undergone a legitimate religious conversion and may have shot his victim in reflex to being shot himself.

Granting clemency does not indicate he agrees with all of the board's reasons for favoring commutation

of the sentence, Schwinden added.

"It means that I concur with their recommendation," he said. "They used their set of criteria; I came to my conclusion independently."

He said his action does not alter his support for the death penalty in some cases.

"This does not suggest there are not instances where this governor would have rejected a recommendation for clemency," Schwinden said. "I still believe capital punishment is proper in some instances."

Schwinden's decision is the climax of a case that began almost five years ago, when Keith robbed a Missoula drug store and shot and killed Shryock seven hours later at a Polson airport.

Shryock, 64, had exchanged himself for a 13-year-old boy whom Keith took hostage near St. Ignace while fleeing police.

The shooting of Shryock on Jan. 11, 1984, occurred momentarily after Keith was shot in the arm and abdomen with a rifle fired by a Lake County sheriff's deputy. Seconds later, Keith was shot in the head by another deputy armed with a pistol.

Against the advice of defense attorneys, Keith pleaded guilty in March 1985 to all charges against him, including deliberate homicide and aggravated kidnapping for the abduction and killing of Shryock. Keith was sentenced two weeks later to death on both counts and has

staunchly refused to allow court appeals of his death sentence.

He cited religious convictions as the reason for his stand, saying any appeal would be a form of denying his faith.

The Montana Supreme Court, which automatically reviews all death sentences, threw out the death penalty for the homicide charge, but upheld it for aggravated kidnapping.

Keith was originally sentenced to die by lethal injection Dec. 1, but the Board of Pardons postponed the execution after Keith asked to hear a clemency application filed on behalf of Keith by Mayo Ashley, a Helena attorney.

The hearing was held Dec. 19 in Deer Lodge.

Coalition challenges USFS in court

COEUR-D'ALENE-SP — A coalition of sportsmen and environmentalists has filed a federal lawsuit to force the U.S. Forest Service to end a "bureaucratic shell game" with its forest plans.

The forest plans, which were mandated by Congress in 1960, do not provide decisions on how to best use the forests, but instead encourage additional planning. John Osborn, coordinator of the Inland Empire Public Lands Council, said at a press conference Thursday in Coeur d'Alene.

Osborn and five others filed the suit in U.S. District Court in Missoula, Mont. They are asking the court to reaffirm that "decisions of substance" will be made in forest plans, he said.

The coalition contends the forest planning decisions may be made without public scrutiny. They want the suit to "tell the Forest Service to go back and basically quit playing games... put the cards on the table," Osborn said.

He also asked television stations for equal time to counter what he called a timber industry media blitz portraying the industry as committed to sustainable forests. Donna Zapata, general manager at KREM-TV in Spokane, said such requests may be honored, but compliance is necessarily not required by law.

The coalition is also seeking an injunction against road building and logging in roadless areas, Osborn said. But he said conservationists would continue to work with the Forest Service to follow through with planned timber sales on a case-by-case basis.

The other groups in the coalition are the Idaho Environmental Council, the Idaho Conservation League, Idaho Sportsmen's Coalition, Idaho Wildlife Federation and the Northern Rockies Chapter of the Sierra Club.

The Forest Service began writing the forest plan for the Panhandle forests in 1989 and released it in 1987. In October of that year, outdoors groups and environmentalists appealed the plan and asked the Forest Service to stop road building and logging in roadless areas.

In August, the Forest Service denied the appeal, ruling that the agency does not have to decide the fate of roadless areas in the forest plan.

Osborn said earlier that the Forest Service's decision to rule on roadless issues on an area-by-area basis essentially was a "non-decision." Instead of dealing with one forest plan, hundreds of separate decisions are considered, and the total impact on the economy, real estate, timber industry and outdoor recreation are never fully considered, he said.

Lawyer tackles Continental crash

WATERBURY, Conn. (AP) — A Connecticut lawyer is applying the innovative techniques used to settle litigation arising from the collapse of a building to settle suits stemming from a Continental Flight 1713 airplane plane crash that killed 28 people.

Garrett M. Moore, a Waterbury lawyer who represented seven of the victims of the L'Ambiance Plaza disaster or their estates, has been named a special master with broad authority to effect settlements in cases evolving from the Nov. 15, 1987, crash of Continental Flight 1713 at Stapleton International Airport in Denver.

He already has achieved agreements in about half the 82 suits brought by survivors or kin of those

who perished in the crash.

The goal is to reach agreements between the two defendant airlines and the litigants and to avoid protracted trials by following roughly the same format as the L'Ambiance Plaza case in Connecticut.

In that action, one overall \$11 million settlement plan was accepted to end litigation.

Moore was named the special master by Chief U.S. District Judge Sherman G. Finesilver in Denver, who asked him to take on the case because of his L'Ambiance experience.

L'Ambiance was an apartment building under construction in Bridgeport when it collapsed on April 21, 1987, killing 28 workers.

Finesilver's order gave Moore "unrestricted power to meet" with anyone to reach settlements in all cases. Moore said he hopes to complete his task by March.

The defendants don't have to accept my decisions, the plaintiffs don't have to accept my recommendations... I have to persuade them that it is to their benefit to settle," Moore told the Waterbury American newspaper in a story published Thursday.

The case involves a DC-9 twin engine jet carrying 82 people, including 77 passengers and five crew members that was attempting to take off from Denver in a snowstorm. The plane was bound for Boise, Idaho. It was airborne for only a few seconds and then crashed.

National Transportation Safety Board investigators have said the crash was caused by the captain's failure to de-ice the aircraft after a takeoff delay.

The NTSB report said another contributing factor was the "absence of regulatory or management controls" which led to the pairing of two inexperienced pilots.

There was a terrible storm," Moore recounted. The pilot was supposed to have the wings de-iced every 20 minutes, but there is evidence that the pilot went beyond 20 minutes... The plane shifted and broke into three pieces.

Whether the shift to the left was because of too much ice or overreaction of the pilot to the shift to the right no one knows," he said.

Obituaries

Emma Fetzer
TWIN FALLS — Emma Fetzer, 81, of Twin Falls, died Wednesday, Dec. 28, 1988, at Magic Valley Regional Medical Center.

Born July 19, 1907, at Mosango, N.D., the daughter of Mathias and Carolina Gunkle Haasler, she married Christian Fetzer in 1925 at Tinsdale, N.D. They farmed in Illinois for several years and then moved to a homestead in Powell, Wyo., in 1930. They lived in Burley in 1945 and Twin Falls in 1960. They managed the Hungton Apartments in Twin Falls until 1977 when Mr. Fetzer died.

She was a lifelong member of the Lutheran Church.

Surviving are one daughter, Mrs. Howard Lisa Jean Tennant of Twin Falls; five grandchildren; 16 great-grandchildren; and one son, Andrew (Martha) Edwards of Minnesota. She was preceded in death by her husband, one daughter, one son and one great-grandson.

The funeral will be at 1 p.m. Tuesday at the Immanuel Lutheran Church. Burial will be at Sunset Memorial Park. Friends may call from 4 to 8 p.m. Sunday and Monday at White Mortuary.

and graduated from Burley High School in 1933. He attended the University of Idaho and an school in Los Angeles and lived in Los Angeles, Burley and Rupert. He married Emma Mae Culver, March 23, 1930, at American Falls and served in the U.S. Army during World War II. He owned and operated the Idaho Neon Sign Co. for 20 years. He was the Missoula County Military Service Officer for 12 years and retired in 1982. He was a member of the ROTC, National Guard, American Legion, VFW, Day Camp and member of the Elks Lodge. He was a member of the LDS Church.

Surviving are: his wife of Rupert, and one daughter, Sally Rogers, Crosby, Texas. He was preceded in death by his parents and one sister.

Funeral services will be at 11 a.m. Saturday at the Paul Cemetery with military graveside rites. Friends may call at the Hanson Mortuary Chapel this afternoon and evening and prior to the service on Saturday.

William L. Patterson
BURLEY — William Leonard Patterson, 87, of Burley, died Tuesday, Dec. 27, 1988, at Dixie Medical Center in St. George, Utah.

Born Sept. 13, 1901, at West Point, Weber County, Utah, the son of James and Anne Lavina Singleton Patterson, he received his education in Weber County, Utah, and attended the Weber Academy. He married Ethel Elda Barr on March 12, 1921, at the Salt Lake City, Utah, LDS Church.

Surviving are: his wife of Burley, a sister, Bessie (Mrs. Harold L. Quast) officiating. Burial will be in the View Cemetery. Friends may call at the Payne Mortuary from 6 to 8 p.m. today and the check one hour prior to the funeral on Saturday.

The automatic burial home dates back at least to Dec. 5, 1987, when the home, owned by Lewis Caldwell, sustained extensive damage to its underground, but no monetary estimate of the loss was available.

The house is located at the RDA comprehensive about four miles south-east of Rupert.

Trailer house suffers extensive fire damage

RUPERT — A trailer house southeast of here sustained extensive fire damage Thursday when its owner unintentionally ignited a gas leak.

The fire started in the living area, but no monetary estimate of the loss was available.

The house is located at the RDA comprehensive about four miles southeast of Rupert.

Crime

Continued from Page B1

dollars worth of stolen items in several different places, including the home of one of the youths, Cochran said. Police, believing that even more items were tossed into the Snake River, also plan to drag the waterway with a magnet capable of lifting 100 pounds.

The 16-year-old's parents reported Thursday morning that their son and one of their vehicles were missing, Cochran said. Police immediately issued an attempt-to-locate bulletin on both.

Around 9 a.m., a Twin Falls County sheriff's deputy found the vehicle about four miles south of Idaho, Cochran said. However, about 30 minutes later, Dave Munroe of Buhl reported that his pickup had been stolen from in front of his residence. Police therefore issued a bulletin on that vehicle as well.

A few hours later, an Elk-sure gas station employee reported that a pickup driver had left without paying for about \$30 in gas, Cochran said.

A Nevada patrol officer located a pickup matching the description, then discovered that the truck had been reported stolen in Idaho, Cochran said. The officer pulled the vehicle over and arrested its 16-year-old driver.

Nevada authorities could charge the youth with misdemeanor theft and possession of stolen property, but Cochran said they probably will just ship him back to Idaho instead.

Lemon

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The big problems began just after 30,000 miles. First the transmission had to be replaced — to the tune of \$1,800, including transportation costs from Missoula, Mont., back to Twin Falls. And it took three weeks to repair.

At 36,000 miles, the motor went out in Timpanah, Nev. Smith wrote in his letter to Moore. Down time was six months for that one.

Smith has also replaced the rear wheel bearings twice, and he wrote that he probably has spent at least \$10,000 on the four RV, including maintenance and transportation costs.

Ray Raymond Ford-BMW, which said Matt Smith his RV, has since discontinued the line. In his letter to the attorney general, Smith said Ray Raymond himself purchased a LaSharo — and purchased a new engine for it about 12,000 miles later.

Officials of Winnebago Industries could not be reached for comment. Repeated calls to two phone numbers listed for the company in Forest City, Iowa, yielded no answer.

In a Nov. 3 Wall Street Journal article, however, Frank Retta, a Winnebago spokesman, acknowledged the company has had problems with the diesel engines it purchased from Renault. According to the Journal, Retta said he did not want to com-

ment further due to "some litigation" over the matter with owners.

The auto safety report, begun by Ralph Nader in 1970, has four Idaho postmarked complaints in its thick Winnebago file. The group has asked some private lawyers to look into the possibility of taking the case to court.

There are approximately 8,500 of the vehicles and that's "normally too few for any one state to take action on," said Clarence M. Dilworth III, executive director of the consumer group, but we feel it's terribly unjust for someone to spend \$20,000 and then have to spend the amounts we're seeing on repairs."

Cathy King, an attorney with the state's consumer protection unit, said she has not seen Smith's letter so cannot comment directly. But she said the attorney general's office has limited resources, and complaints must involve a large number of residents or large amounts of money to earn a place on the priority list.

The consumer protection group has asked Winnebago Industries to set up a \$100 million fund to recall and replace the defective diesel engines, to reimburse customers for past repairs and other costs, to buy back or replace vehicles no longer wanted and to make up for depreciation.

Services

RAYMOND G. BRIM
RUPERT — Raymond Garth Brim, 73, of Rupert, died Wednesday, Dec. 28, 1988, at the Veterans Administration Hospital in Boise.

Born April 28, 1915, in Burley, the son of William B. and Pearl Colman Brim, he attended schools in Burley.

William L. Patterson
BURLEY — William Leonard Patterson, 87, of Burley, died Tuesday, Dec. 27, 1988, at Dixie Medical Center in St. George, Utah.

Born Sept. 13, 1901, at West Point, Weber County, Utah, the son of James and Anne Lavina Singleton Patterson, he received his education in Weber County, Utah, and attended the Weber Academy. He married Ethel Elda Barr on March 12, 1921, at the Salt Lake City, Utah, LDS Church.

Surviving are: his wife of Burley, a sister, Bessie (Mrs. Harold L. Quast) officiating. Burial will be in the View Cemetery. Friends may call at the Payne Mortuary from 6 to 8 p.m. today and the check one hour prior to the funeral on Saturday.

Methodist Church in Twin Falls. The family suggests memorials be made to the American Cancer Society or the Albion Library.

BURLEY — The funeral for W. Leonard Patterson, 87, of Burley, who died Tuesday, will be at 1 p.m. Saturday at the View LDS Ward Chapel. Burial will be in the View Cemetery. Friends may call from 6 to 8 p.m. today at the Payne Mortuary and at the church one hour prior to the funeral Saturday.

BURLEY — The funeral for Donna Robinson, 71, of Burley, who died Wednesday, will be at 1 p.m. today at the Joseph Payne Memorial Chapel. Burial will be in the View Cemetery. Friends may call one hour prior to the funeral at the chapel.

JEROME — The funeral for Edna Hatfield, 72, of Jerome, who died Tuesday, will be at 11 a.m. today at the Sunset Memorial Park.

BURLEY — George Woodall, 81, of Burley, died Tuesday, Dec. 27, 1988, at the West Magee Care Center in Twin Falls.

The funeral will be at 11 a.m. Tuesday, at the Joseph Payne Memorial Chapel. Friends may call from 6 to 8 p.m. Monday and one hour prior to the funeral on Tuesday. Interment will be in the View Cemetery. The family suggests that memorials be given to a favorite charity.

Hospitals

MAGIC VALLEY REGIONAL MEDICAL CENTER
Admitted
Mrs. Martin B. Becker of Burley; Lewis J. Looman of Gooding; Mrs. David Hanson of Hagerman; Mrs. Nicholas S. Pyle of Hazelton; Mrs. Ralph F. Orr; Bryan E. Wainor of Rupert; Gertrude B. Flanagan; Mrs. Marvin L. Frasier and Samuel Anthony Green of Twin Falls.

Released
Mrs. Crespo Ruz Ruiz and daughter of Elber, Mrs. M. R. Frankler and daughter of Gooding; Mrs. Merlin Koch and son, and Mr. Robert W. Oliver, all of Jerome; Mrs. David R. Loerman and son of Kimberly; Mrs. Bruce K. Loonan and son, Mrs. Nell M. Morrison, Adam Randall Birch Jr., Mr. Michael J. Birch and daughter, and Mrs. Curtis Webb and son, all of Twin Falls.

TWIN FALLS — A memorial service for Harold W. Menner, 75, of Twin Falls, who died Friday, will be at 11 a.m. today at the Forest United Methodist Church in Twin Falls.

BIRTHS
A daughter was born to Mr. and Mrs. John Prohman of Twin Falls.

CASSIA MEMORIAL
Admitted
Curtis Bergstrom, Oklahoma County, Okla.; Ernest, Jr. Hillford, Ethel Morris, Bernice Preston and Dawn Shaw, all of Burley.

Released
Gloria Bergstrom, Robert E. Collins, Peggy Decker, George Kirkman, Frank Rodgers, Owen Shaw and Mae Woodall, all of Burley; and Theresa Staker of Heyburn.

BIRTHS
A baby was born to Mr. and Mrs. Tom Preston of Burley.

ALBION — A graveside service for Ernest Bergstrom, who died Tuesday, will be at 11 a.m. Saturday at the Kohler Lawn Cemetery in Nampa. Local arrangements are under the direction of Hanson Mortuary.

WENDLELL — The funeral for Leslie Lawrence Lawson, 75, a former mayor of Wendell, who died Tuesday, will be at 2 p.m. Saturday at Demaray's Woodhill Chapel with Lowell Stadolph and Dave Nealon conducting the service. Burial will follow at the Wendell Cemetery. Friends may call from 12 to 1 p.m. today. The family suggests memorials be made to the American Cancer Society.

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Jerry D. Holman

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