

RATON ~ NEW MEXICO NEWS



The Red Hot Mammams, and the Red Hat Foxy Ladies, joined for food and fun at K-Bob's Steakhouse for a Mardi Gras Night.

(Photo courtesy of Frank Mahannah)

Hearing begins in fatal NM hit-and-run case

SANTA FE, N.M. (AP) – A former state police sergeant who was a passenger in a car that struck and killed a man in downtown Santa Fe last November is refusing to answer the prosecution's questions.

Alfred Lovato invoked his 5th Amendment right against self-incrimination soon after he took the stand during a hearing Monday.

Investigators have said Lovato was riding in the car with attorney Carlos Fierro when Fierro hit and killed William Tenorio of San Felipe Pueblo on Nov. 26. Fierro's blood alcohol level was more

than double the legal limit.

The hearing is set to resume Wednesday. At the end of the proceeding, it will be up to state District Judge Michael Vigil to decide if probable cause exists to charge Fierro with vehicular homicide and causing an accident involving death.

Lovato was the first person called to the stand Monday. The court also heard from nurses, the police officer who pulled over Fierro and an Albuquerque television anchorwoman who had known Fierro for a few months.

Santa Fe Police Officer Ben Valdez testified that when he

pulled over Fierro and asked him to get out of the car, Fierro smelled of alcohol and stumbled. A video clip from the officer's dashboard camera showed Fierro was unsteady on his feet.

KOB-TV anchorwoman Marla Tellez testified that Fierro had lunch with her at her home the day before the crash. She said he sent her an e-mail after the crash, saying he and Lovato were in jail. She asked what had happened and if it was serious.

Fierro wrote back that he hit "a drunk guy" who was in the street. Tellez testified that Fierro later sent a message in

which he said "he was sorry and he failed."

Before testimony began, Vigil ordered that the \$250,000 property bond previously put up for Fierro be reinstated. He also ordered that Fierro be placed on electronic monitoring, that his blood-alcohol level be checked regularly and that his travel be limited to Santa Fe, Sandoval and Bernalillo counties.

Information from: *The Santa Fe New Mexican*, <http://www.sfnwmexican.com>

Proposals would allow court-ordered TB treatment

By **SUE MAJOR HOLMES**
Associated Press Writer

ALBUQUERQUE, N.M. (AP) – New Mexico health officials have gone to the Legislature after noticing a disturbing trend of tuberculosis patients not following treatment – increasing the risk of becoming resistant to TB drugs and spreading the disease.

Health officials want the power to ask courts for help in getting TB patients to follow doctors' orders. The measure could be voted on in the House as early as Tuesday.

"We realized we did not have any legal resources available to us when someone was failing to comply with the prescribed treatment," said Dr. Steve Jenison, medical director of the Infectious Diseases Bureau in the state Department of Health.

Tuberculosis, spread by coughing and sneezing, is the world's deadliest infectious disease that's curable. The World Health Organization estimates the respiratory illness killed 1.5 million people in 2006.

In New Mexico, the Health Department prescribes and administers drugs for TB and monitors patients for side effects. But some don't adhere to treatment for various reasons, including alcohol abuse, mental health problems, homelessness or lack of resources, Jenison said.

Currently, the department can obtain a court order to detain a person with a threatening communicable disease. That gives the agency some power when a TB patient who doesn't follow treatment inevitably becomes infectious again and presents a clear public health danger, Jenison said.

But the department lacks any recourse until the patient becomes infectious, he

said.

The Health Department wants authority to petition a court to give therapy under observation, isolate the patient or both. The proposed legislation doesn't allow forcible administration of medications, requires regular court review of cases and gives patients the right to an attorney.

The threat lies in patients developing resistance to tuberculosis drugs, then spreading the drug-resistant form of the disease, Jenison said.

Two years ago, an Atlanta attorney with a multidrug-resistant strain of TB created an international health scare by flying to Europe for his wedding.

New Mexico doesn't have huge numbers of TB cases, but they're increasing. The state reported 39 cases in 2005 and 58 in 2008. The Health Department said about 10 percent in any given year don't follow treatment.

Jenison said experience with a similar TB law in Texas shows court orders work.

"Usually all that was required (to get a patient back on treatment) was a court order that the person comply with directly observed therapy," he said.

If someone still doesn't comply, the legislation would let the department ask a judge to isolate the person "until they're cured of tuberculosis or it becomes clear they are going to comply" with treatment, Jenison said.

The state has numerous cases of TB patients being resistant to one or the other of the two most effective first-line drugs; Jenison doesn't want that to progress to resistance to both.

Typically, tuberculosis is treated for six to nine months with two to four antibiotics. Multidrug-resistant TB moves a person into 18 to 24 months of

treatment "with a much more complicated regimen of drugs that are more likely to have serious side effects," he said.

It's also more expensive. The Health Department estimates it costs \$166,000 to treat TB for nine months at a secure residential treatment center but about \$443,000 for two years of treatment for multiple drug-resistant TB.

Between 1985 and 1992, the United States saw a resurgence in tuberculosis, along with a rise in multidrug-resistant TB, according to the Federal Tuberculosis Task Force. On Feb. 13, the group released recommendations to fight extensively drug-resistant TB, a type also resistant to the most effective second-line drugs.

The American Civil Liberties Union of New Mexico was persuaded by the Health Department's argument that current emergency health powers "did not cover the unique circumstances surrounding TB," said ACLU executive director Peter Simonson.

However, the ACLU successfully sought amendments to protect patients' rights, including one to require treatment plans to tell patients that failing to follow through would mean legal action and another defining isolation to include homes or hospitals so it "couldn't be construed simply as incarceration," Simonson said.

Jenison said the measure tried to address due process concerns.

"It spells out in great detail exactly what the department must demonstrate in order to get a court order and also spells out in detail the rights of the individual," he said.

The TB treatment bill is HB397 substitute

Police: 10 bodies buried west of Albuquerque

By **MAGGIE SHEPARD**
Associated Press Writer

ALBUQUERQUE, N.M. (AP) – Four more bodies have been uncovered from the mesa west of Albuquerque, including a fetus found inside its mother's skeleton, bringing the total remains found in the area to 10.

The search for bodies began 27 weeks ago after hikers discovered some remains in an area recently razed for a housing development.

Since then, teams of detectives, anthropologists and medical investigators have excavated an area 10 yards by 30 yards, uncovering some bones in graves and others scattered either by animals or the development project. Albuquerque Police Chief Ray Schultz said Monday.

Police suspect one person is responsible for burying the bodies because of how close the bodies have been found together in what was a remote area when the bodies were estimated to have been buried, between 2000 and 2005.

Only one set of remains has been identified.

Those bones belonged to Victoria Chavez, whose family provided dental records when they reported her missing in 2004. They and police have described Chavez as struggling with drug addiction and working as a prostitute.

Schultz says the remains of two people were found Saturday. The third body and the fetus were found Monday.

Forensics commander Paul Feist said about 25 investigators will continue to dig at the scene until "we get everything possible."

So far, only three skulls, including Chavez's, have been recovered, making identification of the other remains difficult and time consuming, Schultz said.

Police said they are monitoring a list of missing prostitutes compiled by the missing person's unit. Chavez was on the list of missing women with prostitution and drug connection, which begins with a woman missing in 2001 and concludes with a woman reported missing in 2006.

Schultz said investigators are not ready to say all the remains found on the mesa are female, let alone on the list.

Homicide Sgt. Carlos Argueta said identification of the remains could take up to a year and the investigation into the cause of death and any possible suspects even longer.

The FBI has agreed to help with DNA identification, Schultz said. But he said investigators haven't decided whether to test each bone recovered.

"Right now, our focus has been on recovery of the victims," Schultz said.

His department is organizing a task force for the case and crime scene, which Schultz called "one of the largest in APD history."

He said detectives are looking at suspects, but it's too premature to discuss them.

However, detectives have said two names of deceased men have surfaced as possible suspects. One was killed in 2006 by a pimp who caught the man stuffing a prostitute's body into a car trunk. The other is a well-known pimp who died of natural causes in 2009 and who had pictures of missing prostitutes in his home.

All the remains have been found along what Schultz described as once being a wash that has since been filled in by earthmovers. Schultz said some construction workers are helping determine where and how soil in the target area was moved.

He said some of the disturbed soil was spread along a road, which might have to be dug up as the investigation continues.

COLFAX COUNTY CALENDAR

February

Feb. 24

"On The Road To Living Well With Diabetes" classes to be held Feb. 24, March 31 and May 19, 2009 beginning at 8:45 a.m. at the Miner's Colfax Medical Center (MCMC) Long Term Care facility (900 S. Sixth St) in Raton. Call (575) 445-8071 to pre-register.

The Colfax County Fair Association Board of Directors would like to announce the dates for the 2009 Colfax County Fair and Rodeo will be Aug. 10-

16, 2009. If you have any questions or need additional information please contact: Troy Sauble at (575) 375-2790 or (575) 447-0012; Marlene Nystul at (575) 445-3281; or by email at: colfaxcountyfair@hotmail.com

Feb. 28

7:30 pm – BYU Young Ambassadors. Shuler Theater. Presented by Raton Arts and Humanities and Woody's Furniture. Tickets at www.ratonarts.org or (575) 445-2052.

Nathan Aguirre leads Raton BPA to state convention success

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Mexico BPA Leadership Conference held last week at the Marriott Hotel and Desert Ridge High School, both in Albuquerque. He took first place in Administrative Support Concepts and fourth in Advanced Word Processing.

Aguirre will travel to Dallas with two other RHS seniors who qualified for nationals. Kelsey Fissel won second place in Payroll Accounting at Albuquerque, sending her to the national competition for the second consecutive year. Renae Grubelnik scored fourth in Payroll Accounting, earning her a competition berth in Dallas.

Mark Riddiford, Raton High School's BPA sponsor, spoke with excitement about the number of successful Raton students at state competition this year. He listed students who placed within the top ten against all competitors from throughout New Mexico. They included Jerica Martinez, Jimmy Carroll, Rachel Cimino, Christina Harrison, Anthony Cordova in two events, Levi

Smith in two events, and the RHS Parliamentary Procedure Team of Shanna Trujillo, Jerica Martinez, Chelcie Fernandez, Megan Neurauter, and Heather Romero.

As he prepares for the national BPA competition, Nathan Aguirre is narrowing down his choice of colleges. Though he's looking at possibilities in New Mexico, Colorado, and Arizona, he reveals that he's watching for a letter from Stanford University in two weeks, hoping he gets one of the thick envelopes. Of his BPA competition, he says, "It gives you a better view of life after college, the real world. It really helps prepare you."

Aguirre, the son of local educators Marisa and Steve Aguirre, is considering the field of chemical engineering, perhaps to develop new medications within the pharmaceutical industry. Meantime, he enjoys tennis and his part-time job as computer technician at the High Plains Regional Education Cooperative in Raton.

Deported infant case back in court

McALLEN, Texas (AP) – A South Texas woman's lawsuit against the federal government for deporting her 1-year-old daughter – a U.S. citizen – to Mexico will move forward after a federal appeals court ruled that it was incorrectly dismissed by a lower court.

Monica Castro did not see her daughter for three years after the Border Patrol deported her along with her father, an illegal immigrant, whom Castro had reported to authorities after an argument, according to court records.

Castro, originally from Corpus Christi, met Omar Gallardo after moving to Lubbock with her family. Castro left the home she shared with Gallardo and their daughter.

Border Patrol was aware that her daughter was a U.S. citizen but refused to hand her over because Castro was not able to obtain a custody order before the girl and her father were driven to the border and given to Mexican authorities.

When Gallardo was detained in 2006 after illegally entering the country again, he agreed to return the girl to Castro. She had been living with his parents in Mexico.

Castro sued the government for violating her daughter's constitutional rights. A federal judge in Corpus Christi dismissed the case in 2007, determining Border Patrol agents operated within their discretion.

But the U.S. Court of Appeals for the 5th Circuit in New Orleans released an opinion late Friday sending the case back to district

court. In a split decision, the majority opinion said the government was not protected when its agents' actions are unconstitutional.

Castro, who is represented by Texas RioGrande Legal Aid, had argued that her daughter's rights protecting her against unreasonable seizure and guaranteeing her due process were violated.

In his dissenting opinion, Justice Jerry Smith wrote that such an interpretation would open the federal government to "substantial liability." The girl was with her father and had his consent to travel with him, Smith wrote.