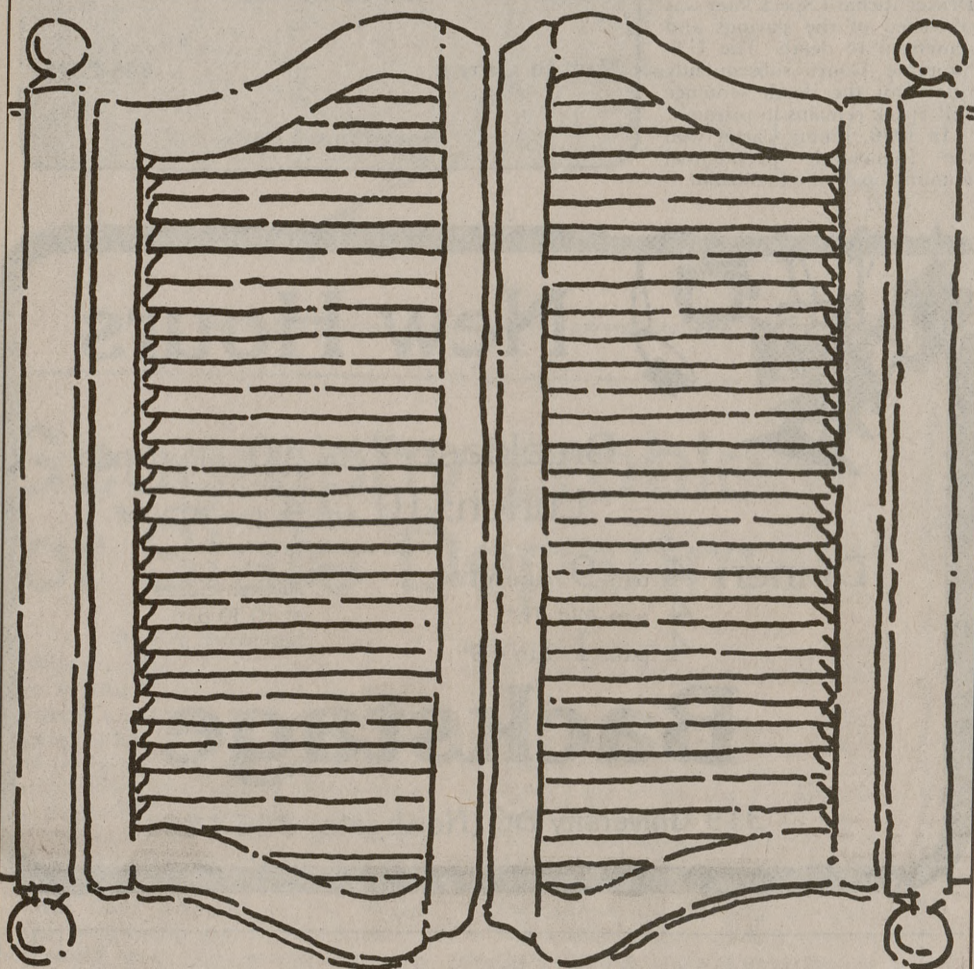


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state

Battalion Page
July 14, 1981

Indictments dismissed, law vague, judge says

United Press International
GALVESTON — A judge has dismissed murder indictments against a Texas City nursing home and eight employees by ruling the state law governing the issue was unconstitutional.

State District Judge Larry Gist of Beaumont ruled Monday the law was too vague to allow the Autumn Hills Convalescent Center Inc. and eight employees to be tried for murder in the deaths of eight elderly residents of the nursing home.

The case is believed to be the first of its kind involving murder charges filed against a corporation.

Gist's order is not effective until Aug. 1, to allow Galveston County District Attorney James Hury to appeal to the state Court of Criminal Appeals, Gist said in a decision filed Monday in Galveston.

Hury refused to comment on the case, saying "a lot of discussions still (are) going on." He said the judge had acted on a motion filed by defense attorneys to quash the indictment.

If the higher court agrees with Gist, Hury may have to seek new indictments. A hearing has been set for Thursday in Galveston for the judge to explain his ruling.

The Houston-based corporation which operates Autumn Hills and the eight present or former employees were indicted last year after an investigation of patient abuse and neglect.

The grand jury characterized what it heard as a "horror story." It returned the 38-count indictment which said the deaths of the patients during a 13-month period in 1978 and 1979 were caused by neglect or withholding of medical treatment.

Trial was set for September but Gist ruled the nursing home and its employees cannot commit a felony such as murder simply by omitting to perform other duties, because the law is unambiguous.

Defense attorney Ron L. Pugh of Austin had argued the indictments were void for fraud.

He argued the indictment failed to cite an act by the corporation or its employees, therefore, did not meet legal requirements.

Only three cases were set for the September trial, including charges against the corporation's vice president in charge of operations Ron L. Pugh, 38, and Mattie Wells Lora, director of quality control and former nursing consultant.

The ruling affects all indictments.

Pistol failure cited in deputy's lawsuit

United Press International
AUSTIN — A sheriff's deputy who was paralyzed by a gunshot wound to the neck has filed suit against the manufacturer of his .38-caliber revolver, claiming it failed to fire during the confrontation in which he was wounded.

Charles Lacey and his wife Erica filed the suit against Smith and Wesson, seeking payment for more than \$300,000 in medical expenses and reimbursement for past and future loss of earnings.

Lacey was shot in the throat Feb. 19, 1981, when he stopped a car on a traffic violation. Ricky Ellison was convicted of attempted capital murder in the shooting, and has been sentenced to life in prison.

The suit, filed Monday, contends that when Ellison tried to respond by using a firearm.

Jack London, Lacey's attorney, said Lacey tried to fire the pistol, but it would not fire because of defects in the firearm.

Sheriff Doyle Bailey said he could not confirm or deny Lacey had attempted to fire the revolver during the confrontation with Ellison.

"I have never seen a rifle misfire where it did not have some kind of mark on the casing," Bailey said. He said there were no marks on shells in Lacey's gun.

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Friday	BBQ Dinner	6:30	5.95	6.95
Saturday	Buffet	6:30	8.95	9.95

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