

# Man overstays jail term by 10 months

**United Press International**  
HOUSTON — A three-member state appeals court has blasted a Harris County misdemeanor judge for allowing a man serving a six-month trespassing sentence to spend nearly 16 months in jail, court records showed.

The First Court of Appeals Friday called the case "shocking to our sense of justice," and one member declared "this injustice was done intentionally."

Attorney Moeller said she discovered Hicks' plight last week, took over the case and secured Hicks' release on a personal recognizance bond. Duncan sentenced Hicks to 180 days in the county jail after a jury convicted him of trespassing for refusing a secretary's request to move out of a hospital personnel office to fill out a job application.

At the time of sentencing, Hicks already had served more time than his sentence, and Duncan declared him free to go.

But Hicks insisted on appealing the jury's guilty verdict and returned to jail because he was unable to post the routine \$2,500 appeal bond set by Duncan. "Duncan had a clear and unmistakable ministerial duty to order that (Hicks) be discharged from confinement," the court said.

The panel stated that Duncan was aware that Hicks had already served longer than his sentence and would be unable to post an appeal bond. The court said it would not tolerate

situations in which judges force defendants to either give up their appeal or go back to jail.

"That Cleveland Hicks should have served 494 days on a 180-day sentence is outrageous and unjustifiable," wrote Associate Justice Murry Cohen.

"This is not a case where the jailer forgot to release a prisoner at the end of his sentence. This injustice was done intentionally," Cohen wrote.

Duncan Friday said he thought Hicks' court-appointed attorneys, Ron Mock and Ben Durant, had paid the bond and Hicks was free pending his appeal.

"Since he didn't want to go home, I forgot about it," Durant said. "He said he could get three square meals a day there, and that he would be all right."

"The kid should have been released when he got credit for his back time. I don't know whose fault that is. Perhaps I should have checked to make sure the kid got out of jail," Durant said.

# Parents win damage suit after child's death

**United Press International**  
HOUSTON — A parent whose 2-year-old child was tangled on playground equipment at a Houston daycare center said he was "gratified" he won a \$300,000 damage suit because it might help prevent future playground losses.

"We're happy and gratified that maybe we have helped out other parents," said David Lemon, one of the parents of

the child killed while climbing on outdoor gym equipment at the Houston Montessori Children's Center. "But this was a horrible way to prove a point. There is no way to adequately express the loss of a child, our Howard."

He said attorneys were generally reluctant to handle his case because of its unusual nature. "The parents of children usually have little recourse in these cases," he said. "But we

feel this decision may set a major precedent. It may be a landmark in favor of children."

A jury ruled the center was negligent in the child's death by failing to provide proper supervision, proper life-saving aid and proper emergency training for employees.

Later state licensing officials examined the playground and recommended several safety changes, Nemon said.

# Tax cut, deficit discussed

**United Press International**  
DALLAS — House Majority Leader Jim Wright, D-Texas, said Saturday the elimination of the third year of President Reagan's tax cut would chop \$30 billion from the projected \$204 billion budget deficit and help sustain the nation's economic recovery.

Wright, in a symposium on the budget, said national polls indicated 65 percent of Americans would rather see the deficit reduced than have a token amount of extra money in their paychecks.

"The polls show Americans don't believe they'll ever see the money from a tax cut," Wright said. "But they do want the deficit reduced."

The symposium, organized by the Committee for a Responsible Federal Budget and underwritten by the Kerr Foundation in Oklahoma, was a gathering of Republican and Democratic officials and members of the news media to explain the budget process to Americans and the hazards of continued

deficit spending.

"There are some hard facts and some difficult choices," Wright said. "The current deficit (three times higher than any previous administration) must be an embarrassment to the president. He offered his economic recovery plan, and with very few exceptions the Congress has followed it."

Wright, D-Texas.

The result, he said, was a federal budget deficit reaching the \$200 billion range instead of being balanced, with unemployment in the area of 9 percent and double digit interest rates.

With the deficit so high, panel members said the government was borrowing up to 80 percent of the money in American savings accounts — compared with 50 percent in the Carter administration — making it difficult for the private sector to compete for loan money.

The result is that industries dependent on loans for survival may have to pay higher interest rates.

Sen. Pete Domenici, R-N.M., chairman of the Senate Budget Committee, said despite

Wright's warning that Reagan's tax cut should be eliminated, there was little chance of that happening. He also said Reagan had pledged to veto any bill trying to kill the tax cut.

Rudolph Penner, an economist with the American Enterprise Institute, said the ideal economy would be one with 5 percent annual growth through 1986, an unemployment rate no higher than 6 percent and an inflation rate in the neighborhood of 3 to 4 percent.

Penner said, however, if the economy starts coming back too fast — raising the specter of inflation running 7 or 8 percent — the recovery could be aborted and turn down again.

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