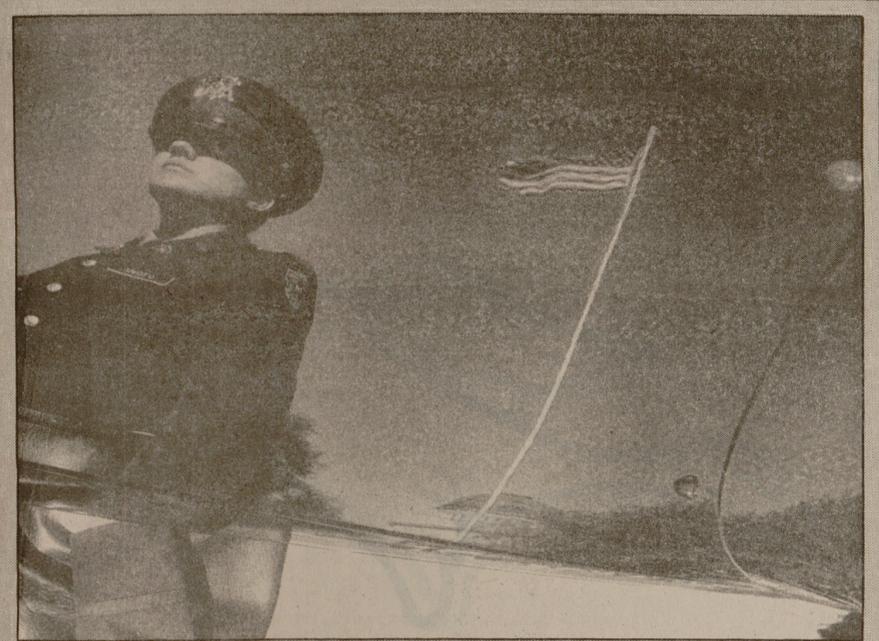


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SCOTT D. WEAVER/The Battalion

Stars and stripes

Julie O'Dowd, a sophomore biology major from San Antonio and a cadet in the G-1 Squadron, walks by the Academic Building courtyard early Wednesday afternoon. Her reflection and that of the Academic Building's flag, were caught on the hood of a parked car. The sunny and mild weather will continue today and Friday. Thursday night will be clear and cold with temperatures in the 40s.

Jury indicts man in rape of retarded sister-in-law

LUBBOCK (AP) — A 40-year-old man was indicted by a Lubbock County grand jury Wednesday in connection with the rape of his profoundly retarded sister-in-law. Jimmy Wooten, who has been jailed on \$250,000 bond since his arrest Jan. 17, was indicted on one count of sexual assault. Police accuse Wooten of raping 33-year-old Debra Lynn Thomas and fathering her son, David Lynn Thomas, who was born on Jan. 1. The Associated Press does not usually identify rape victims, but Thomas' name was made public at the request of her sister and legal guardian, Dori Wooten. Thomas, a former resident of the Lubbock State School, has the IQ of a 2-year-old and does not realize she has given birth. Lubbock County Assistant District Attorney Denise Williams said Wednesday no trial date had yet been set for Wooten. Thomas' rape drew national attention after suspicion initially focused on employees of the Lubbock State School. But DNA blood tests submitted to police by Wooten and 10 state school employees genetically fingerprinted Wooten as the leading suspect in Thomas' rape.

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FRIDAY FEBRUARY 15 3 P.M.

ROOM 510 RUDDER

Reception Following

Court rules in favor of Texas workers

AUSTIN (AP) — In a ruling called a milestone for Texas workers, the Court of Criminal Appeals decided Wednesday that federal law on workplace safety does not preempt prosecution of employers for criminally negligent homicide. "You cannot commit crimes against the working people of this state and escape punishment just because the crime happened to occur on the job," said Travis County Attorney Ken Oden, hailing the ruling as a "landmark." The 7-1 decision, written by Judge Charles Baird, was in a case involving excavation trench deaths in Austin in 1985. "The purpose of state criminal laws and criminally negligent homicide in particular is not to set standards for workplace safety," the Texas Court of Criminal Appeals said. "The purpose is to punish one for an illegal act... Therefore, state criminal laws are not preempted by federal law aimed at safeguarding the workplace." Oden said it was the first time state criminal law was used to prosecute a corporation for workplace homicides. He said the case could set a precedent for Texas and other states, which generally are reluctant to prosecute fields regulated by federal statutes. "I think in some areas like consumer fraud, environmental offenses and certainly workplace safety, our decision to leave that to the federal government has led us down the wrong road," Oden said. "We don't get that good of protection out of the federal government." The case involved Sabine Consolidated Inc. and its president, Joseph Tantillo. Both pleaded no contest to criminally negligent homicide after the walls of a trench collapsed and buried two employees, according to the court opinion. Juan Rodriguez, 32, a Salvadoran national, and Benjamin Eatmon, 40, were killed when a 27-foot-deep trench collapsed on them Sept. 10, 1985. The ruling immediately was applied to a separate case in which the court said Peabody Southwest Inc. pleaded no contest to criminally negligent homicide in another 1985 excavation trench death in Austin. Margarito Maldonado, 19, of Mexico died in an 8-foot-deep trench that collapsed July 17, 1985. Sabine was fined \$10,000; Tantillo was given a probated sentence and fined \$2,000; and Peabody was fined \$20,000. The 3rd Court of Appeals in Austin had ordered acquittals in the cases, holding that the federal Occupational Safety and Health Act showed Congress' intent to preempt the occupational safety field. The Court of Criminal Appeals reversed the lower appellate court. It sent both cases back to the 3rd Court for resolution of other points of appeal. Oden said the Peabody case also was significant because it doubled the \$10,000 fine that was set in the criminal law affecting corporations to allow for the loss to the employee's family. If the fine withstands appeal, it could remove the upper limit for cases involving alleged corporate crime and allow fines of two times the harm done, Oden said. Judge Frank Maloney of the Court of Criminal Appeals did not sit in either case. He was listed as attorney for the companies in court documents, but did not immediately return a telephone call from The Associated Press.

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