

Discovery of dog saves man from sex-crime conviction

50-year sentence overturned after work by Oregon Innocence Project

By **ANDREW SELSKY**
Associated Press

SALEM — The discovery of a black lab named Lucy led to the unravelling of a criminal case Monday against an Oregon man who had begun serving a 50-year prison sentence.

Joshua Horner, a plumber from the central Oregon town of Redmond, was convicted on April 12, 2017, of sexual abuse of a minor.

In the trial, the complainant testified Horner had threatened to shoot her animals if she went to the police about the alleged molestation, and said she saw him shoot her dog, killing it, to make his point.

Six months after a jury convicted Horner in a verdict that was not unanimous, he asked the Oregon Innocence Project for help. The group took up his case.

When the group raised concerns in April about the case with Deschutes County District Attorney John Hummel, he agreed to work with them.

Horner had insisted he never shot the dog. Finding



This photo provided by the Oregon Justice Resource Center shows Josh Horner with his wife Kelli Horner after a hearing in Bend on Monday.

the dog would show the complainant had lied under oath. But if it was alive, where was it?

An Oregon Innocence Project volunteer and an official from Hummel's office searched for it. The black lab had reportedly had been given away by Horner's

then-girlfriend. The investigators were sniffing on the trail, but they had trouble tracking down the purported dog's owner.

"They made a couple trips around Deschutes County; he was not there," said Steve Wax, legal director of the Oregon Innocence Project. "We heard he was in Seattle. Then we learned he had a place on the Oregon Coast."

It was there, in the town of Gearhart northwest of Portland, that the pair finally found Lucy. That key evidence showed the complainant had not been truthful when testifying, the district attorney said.

"Lucy the dog was not shot. Lucy the dog is alive and well," Hummel's office said in a statement.

Hummel told the court Monday he's not certain that Horner did not sexually abuse the complainant, but that he's now not convinced he did. The Associated Press is not naming her because it doesn't identify alleged victims of sexual abuse.

Deschutes County Judge Michael Adler dismissed the case.

Horner, in a statement released by the Oregon Innocence Project, thanked the group, his family, friends and Hummel.

"Kelli and I are ready to pick up the pieces of our lives," Horner said, referring to his wife. The couple came out of the courthouse Monday holding hands and smiling.

Horner had walked out of a state prison in Pendleton on Aug. 3 after the Oregon Court of Appeals reversed his conviction and ordered a new trial. The appeals court said the defense had not been allowed to present certain evidence that was unrelated to the dog.

Now, Horner no longer faces that second trial. He declined a request for an interview, saying he is not ready to speak with the press just yet.

After Lucy was found, the complainant failed to attend a meeting in August to discuss her testimony, Hummel said. Last Wednesday, one of his investigators heard she was at a home near Redmond. When he pulled up to the driveway, she ran away.

Horner had been indicted under a previous district attorney, but the trial and conviction came under Hummel's watch.

Hummel said in an email the issue of the dog being shot was raised for the first time during the trial, so there was no investigation to be done regarding it prior to trial, "and we had no credible reason to question the statement after it was made."

He said exonerations are a reminder that while America has "the best system of justice in the world it is not perfect. Mistakes will be made and we should be judged by how we respond to them."

Wax, who was Oregon's former top federal public defender for 31 years before joining the Oregon Innocence Project, said this case is highly unusual.

"To be able to establish that a person should not have been convicted, you need something objective," Wax said in a telephone interview. "In most child sex abuse cases, there is no evidence. Finding Lucy alive showed the complainant lied under oath in her testimony."

It was the first exoneration for the Oregon Innocence Project, launched in 2014 to exonerate the wrongfully convicted and promote legal reforms.

Wax praised Hummel for his willingness to re-examine the case.

"Nationwide, what Mr. Hummel did was unusual," Wax said. "It is to be commended. It should be the model."

Forecast for Pendleton Area

TODAY



Pleasant with some sun

WEDNESDAY



Partly sunny and beautiful

THURSDAY



Nice with clouds and sun

FRIDAY



Pleasant with clouds and sun

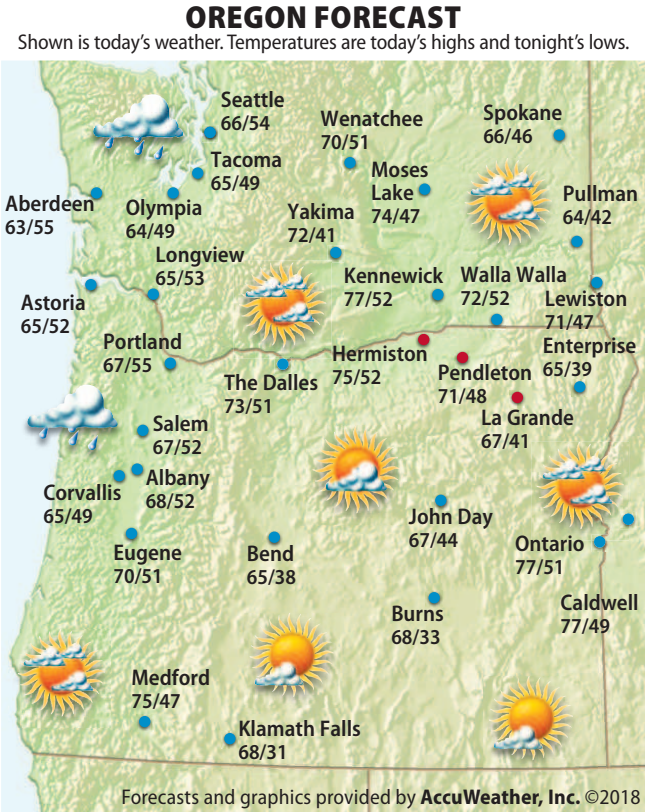
SATURDAY



Nice with clouds and sun

PENDLETON TEMPERATURE FORECAST					
71°	48°	70°	47°	68°	45°
71°	46°	70°	38°		

HERMISTON TEMPERATURE FORECAST					
75°	52°	74°	51°	73°	49°
73°	49°	73°	39°		



ALMANAC

PENDLETON through 3 p.m. yest.

TEMP.	HIGH	LOW
Yesterday	75°	55°
Normals	80°	52°
Records	96° (1990)	30° (1895)

PRECIPITATION

24 hours ending 3 p.m.	0.00"
Month to date	0.00"
Normal month to date	0.15"
Year to date	6.52"
Last year to date	11.37"
Normal year to date	8.53"

HERMISTON through 3 p.m. yest.

TEMP.	HIGH	LOW
Yesterday	79°	59°
Normals	81°	50°
Records	98° (1944)	35° (1932)

PRECIPITATION

24 hours ending 3 p.m.	0.00"
Month to date	Trace
Normal month to date	0.11"
Year to date	5.15"
Last year to date	6.65"
Normal year to date	6.23"

WINDS (in mph)

	Today	Wed.
Boardman	WSW 7-14	WSW 7-14
Pendleton	WSW 7-14	WSW 6-12

SUN AND MOON

Sunrise today	6:28 a.m.
Sunset tonight	7:14 p.m.
Moonrise today	8:38 a.m.
Moonset today	8:41 p.m.

First Full Last New

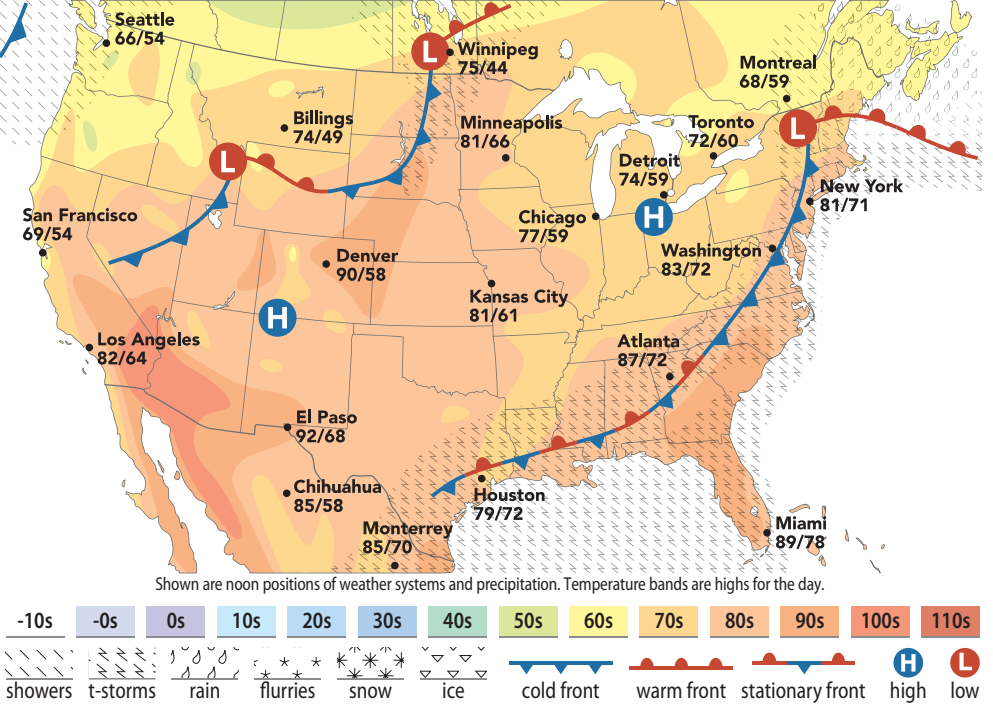
Sep 16 Sep 24 Oct 2 Oct 8

NATIONAL EXTREMES

Yesterday's National Extremes: (for the 48 contiguous states)

High 108° in Blythe, Calif. Low 23° in Yellowstone Nat'l Park, Wyo.

NATIONAL WEATHER TODAY



Chinese immigrant couple swept away at Depoe Bay

DEPOE BAY (AP) — A wave hit two recent immigrants from China as they visited the Oregon Coast, sweeping them out into the ocean and killing them.

Miaochan Chen, 49, and Wenjun Zhu, 41, from Lake Oswego, Oregon, perished on Sunday but their 10-year-old daughter was unharmed, Capt. Tim Fox of the Oregon State Police said Monday.

The family had been picnicking near Depoe Bay when they took a trail down to rocks overlooking the ocean. A wave washed over the rocks, engulfing the couple.

A Coast Guard helicopter and boat searched, and they were found and helicoptered

from the ocean to a nearby state park. Life saving measures were attempted as they were driven by ambulance to a hospital, but they succumbed to their injuries.

The family immigrated in July. A state agency placed their daughter into a local foster home.

Family members were notified with the help of the Chinese Consulate. The Department of Human Services will be working with the families for the daughter's further placement.

So-called sneaker waves sometimes claim lives of the unwary along the coast of the Pacific Northwest.

Tuba Ozkan-Haller, a wave researcher at Oregon State University, recommends that when people go to the beach in Northern California, Oregon and Washington state — which are susceptible to sneaker waves — they study the wave action and ensure escape routes aren't blocked by rocks or cliffs.

Corrections

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