

Man Accused Of Harassing American Indian Students Cleared

BY KEVIN BURBACH
Associated Press

SIoux FALLS — A South Dakota man accused of using racial slurs and spilling beer on American Indian students during a hockey game was cleared of a disorderly conduct charge Tuesday, more than a month after a trial in the controversial case attracted more than 200 people.

Trace O'Connell was charged after authorities alleged he sprayed beer and used racially charged language near a large group of Native American students during a minor league hockey game in Rapid City. Native American groups said the January incident highlighted racial issues in the city and

criticized the charge as too lenient.

Magistrate Judge Eric Strawn released a ruling Tuesday siding with O'Connell, finding that the 41-year-old man from Philip unintentionally spilled beer on the students while celebrating an "important score" at a Rapid City Rush game. The judge also said the city didn't prove O'Connell said any racially charged words near the students.

Other than one woman whose testimony was "unreliable," the judge wrote, no one testified that they heard or saw O'Connell say something racially charged.

"Obviously, we are disappointed in the decision," City Attorney Joel Landeen said in a statement Tuesday. "We

felt all along the city had a strong case with enough evidence to move forward for conviction. The disorderly conduct charge was the strongest charge the city could bring."

O'Connell's attorney, Michael Butler, said the favorable decision wasn't unexpected and his client is relieved, "but you can't undo what's been done publically."

"There's been some pretty vile and reprehensible things said about him by people who have no idea what they're talking about," Butler said.

O'Connell was among about 15 people in a suite that was directly above the area where about 50 students and seven chaperons from American Horse School

were sitting. The school is in Allen, on the Pine Ridge Indian Reservation.

School officials did not return requests for comment Tuesday.

Strawn in July oversaw O'Connell's two-day trial, which was moved to a high school auditorium and drew as many as 250 spectators. The judge had already ruled out the possibility of jail time, meaning the case would not go to a jury. Had he been convicted, O'Connell would have faced a maximum punishment of a \$500 fine.

Landeen told the court in July that O'Connell sprayed beer and it wasn't an accident. At best, the prosecutor said, it was reckless.

Attorneys File Arguments Over Scope Of Water Rule Injunction

BY DAVE KOLPACK
Associated Press

FARGO, N.D. — Attorneys who have been debating state and federal powers regarding small waterways filed written arguments Tuesday over whether a judge's decision to block a new Obama administration water rule applies nationwide.

U.S. District Judge Ralph Erickson last week issued a temporary injunction requested by North Dakota and 12 other states to stop the U.S. Environmental Protection Agency and the Army Corps of Engineers from regulating some small streams, tributaries and wetlands under the Clean Water Act. The EPA maintains that injunction applied only to the 13 states and said it began enforcing the rule in all other states on Friday.

The 13 states said in court documents filed Tuesday that it wouldn't make sense to have a different set of rules apply to some states that may share drainages in the same watershed.

"The court's injunction order properly contained no geographical limitations," the state's document says, "and its scope should not now be restricted."

The EPA said its interpretation is correct because many states are not challenging the rule and two states have ruled that the argument belongs in the 6th U.S. Circuit Court of Appeals, not in federal district court. Expanding the injunction goes beyond on the complaints alleged by the 13 states, the EPA said.

"An injunction of nationwide scope is particularly unwarranted because the court has determined only that the

plaintiffs here are entitled to preliminary relief" and Erickson made no conclusions "regarding any other party," the government said in its brief.

The 13 states exempted for now are Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota and Wyoming. They say the regulation is unnecessary and infringes on their sovereignty.

The federal government said the new rule clarifies ambiguity in the law and actually makes it easier for the states to manage some waterways.

Erickson said in his ruling last week that the EPA had exceeded its authority in issuing the regulation. He then issued an order giving the parties until the end of the day Tuesday to file arguments on the "breadth of the court's order."

Ricketts: Wait For Verification Of Death Penalty Signatures

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Gov. Pete Ricketts' administration is still pursuing lethal injection drugs for executions, the Republican said Tuesday, but it will not decide how to proceed until state officials verify voter signatures on a petition pushing to keep capital punishment legal.

"I think it's important to take this one step at a time," Ricketts said during a news conference on an unrelated subject. "There's a process to follow here with regard to the verification of the signatures, and when we have that verified, then we can talk about what happens afterward."

Nebraska lawmakers voted in May to abolish the death penalty, overriding the governor's veto. The group Nebraskans for the Death Penalty responded with the petition drive, heavily financed by Ricketts, which sought to halt the repeal before it went into effect on Aug. 30 and place the issue before voters.

The group announced last week that it had collected nearly 167,000 signatures from all 93 of Nebraska's counties. At least 56,942 signatures are needed to place the issue on the general election ballot, and 113,883 valid signatures are required to halt the repeal until November 2016 election. Each county will verify

the signatures in a process that will take about 40 days.

Death penalty opponents have formed their own group, Nebraskans for Public Safety, to urge voters to reject the ballot measure.

Ricketts said he will continue to advocate for capital punishment, and may contribute more to the Nebraskans for the Death Penalty campaign. As of the last state filing deadline on July 31, Ricketts had given the group \$200,000. His father, TD Ameritrade founder Joe Ricketts, had donated \$100,000. The group raised a total of more than \$652,000 from 40 individual donors and seven groups classified as businesses, political action committees and other

entities.

"I think it's appropriate that people in Nebraska have a chance to vote on this very important issue," he said.

Even if the law is suspended, Nebraska currently has no way to execute any of the 10 men on death row because its lacks two of the three required drugs and has struggled to obtain them legally. The state paid \$54,400 in May to order the drugs from a broker in India, but federal authorities have said they can't be legally imported.

Nebraska hasn't executed an inmate since 1997, and has never done so using the state's current three-drug lethal injection protocol.

Man Stuck In Tree Bites Firefighter

SIoux FALLS (AP) — Law enforcement authorities say a man whose arm got stuck between tree branches bit a firefighter during his rescue and later fled from a hospital.

Sioux Falls Police spokesman Sam Clemens on Tuesday said the 44-year-old man got his arm caught in the tree Sunday afternoon, and when first responders worked to free him, he bit the firefighter on the left forearm.

Clemens says the Sioux Falls man was taken to a hospital after the incident, but on Monday, he pulled out of his IV and left the hospital. Clemens says the man was taken into custody later that day after a chase.

The man, who authorities didn't publicly identify, was returned to the hospital. Clemens says the man hasn't been charged, but likely will face simple assault and ingesting charges.

Smoking Rate Still Higher Than Average

SIoux FALLS (AP) — As the nation continues to see fewer smokers, so has South Dakota, although the state's most recent data show its rate is still higher than the national average.

A new government report released Tuesday shows that the nation's rate dropped to 17 percent last year compared to 18 percent in 2013.

The most recent smoking statistics from the South Dakota Department of Health come from 2013. The rate that year dropped to 19.6 percent compared to 23 percent in 2011.

The Centers for Disease Control and Prevention released the government's findings Tuesday, based on a large national survey.

The nation's smoking rate was about 15 percent for the first three months of 2015. However, beginning-of-the-year survey data tends to be skewed by the temporary impact of New Year's resolutions.

Sunday Hard Liquor Sales OK'd In Huron

HURON (AP) — Residents of Huron will soon be able to buy hard liquor on Sundays.

KOKK radio reports that the City Commission approved the move Monday night on a 4-1 vote, despite commissioners saying they received a large number of comments from people opposed to the expansion of on- and off-sale hard liquor sales to Sundays.

The change doesn't go into effect until 20 days after the ordinance has been published in the official city newspaper. That means it will not be in effect for the South Dakota State Fair, which starts Thursday in Huron and runs through Monday.

Man Convicted Of Assaulting Officer

RAPID CITY (AP) — A jury has convicted a Box Elder man of assaulting a police officer with his car.

Authorities say officers were attempting to serve an arrest warrant for a parole violation on John Root Jr. on New Year's Day in 2014. They say Box Elder Officer Nick Rosser became caught in Root's car door and was dragged, and that Root also aimed his car at two Pennington County deputies.

Rosser was dragged for several feet but wasn't seriously hurt. Root got away and was arrested two days later.

The 26-year-old Root on Monday was found guilty on three counts of aggravated assault on a law enforcement officer, and one count each of resisting arrest and obstructing a law enforcement officer.

Root's trial lasted four days. He's to be sentenced Sept. 22.

Reading Program In Cheyenne River

EAGLE BUTTE (AP) — A series of youth reading initiatives will soon kick off at the Cheyenne Indian Reservation thanks to a grant from a national nonprofit.

The group Cheyenne River Youth Project has received a \$24,000 grant from the Virginia-based Child Fund International to fund the reading initiatives.

The South Dakota group says the "Just Read!" initiatives are critical in the reservation because children have little access to books at home or through public libraries and lack opportunities to read outside of school.

Tammy Eagle Hunter with the Cheyenne River Youth Project says the group hopes that the new initiatives will not only improve the reading performance of children, but also their overall academic performance.

The "Just Read!" project will include monthly theme-based reading festivals, book distributions and other programs.

\$27.3M Deal Signed To Transfer Rail Yard

SIoux FALLS (AP) — A \$27.3 million agreement that transfers about 10 acres of rail yard in downtown Sioux Falls to the city for redevelopment purposes is now in place after 10 years of waiting.

The agreement was signed Monday by Mayor Mike Huether and BNSF Railway executive Roger Nober at a public ceremony at the rail yard, *Argus Leader* reported. The deal was announced in July.

Negotiations for the city to buy the land from BNSF were in the works for more than a decade. The agreement uses mostly federal funding that was secured by South Dakota's delegation in 2005.

Ohio Sends Seized Tigers, Big Cats Out Of State

BY JOHN SEEWER
Associated Press

TOLEDO, Ohio — Six tigers and four other exotic animals seized by Ohio officials from their owner in January have been moved from a temporary holding facility to animal sanctuaries in three other states, the Ohio Department of Agriculture said Tuesday.

The move began late last week and the final two animals arrived Tuesday at a facility in Arizona, department spokeswoman Erica Hawkins said.

The department took custody of the animals from a small, roadside animal sanctuary near Toledo after it said the owner, Kenny Hetrick, ignored warnings that he needed a permit for the exotic animals and that his cages weren't secure enough to prevent an escape.

The tigers, bear, leopard, cougar and a liger (part lion, part tiger) spent the last seven months at the holding facility operated by the state near Columbus while their owner continued to fight the state's authority to seize the animals.

State officials have said from the beginning that the

facility was not meant to house the animals long-term.

"They're doing really well, so it was an ideal time to transport them," Hawkins told The Associated Press. "They needed more space, and we realized that."

Veterinarians who saw the animals also recommended the move, she said.

Hetrick said he wasn't notified about the animals' relocation beforehand and believed the state was prohibited from taking such action while his legal matters are pending. He said Tuesday that he planned to talk with his attorney about pursuing the creatures' return.

"I want the animals back in Ohio," he said. "They're not allowed to leave the state with them."

His daughter, Corrina Hetrick, said in a separate telephone interview that the animals were fine at the holding facility in Ohio and that separating and moving them was cruel. Until January, they had lived at the

sanctuary since they were young, and some of them are now old — the liger is 23 — she said. The move undoubtedly was stressful to them, she added.

"We're absolutely disgusted," she said.

The animals now are at sanctuaries in Tampa, Florida; Spearfish, South Dakota; and Valentine, Arizona, where they will remain until Kenny Hetrick's court challenges against the state are resolved, the state said. The Department of Agriculture said in a court filing that caretakers at the sanctuaries are under contract but it retains custody of the animals.

Because the legal proceedings could continue for months or more than a year, the state decided it could not wait for the move.

"We've gotten good feedback from the sanctuaries that they're enjoying the open space," Hawkins said. "It's definitely a better situation for them."

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