

## Oak Knoll fire defendant found not guilty

December 11, 2010

A homeless man accused of starting the devastating Oak Knoll fire is free and headed back to Ashland after being found not guilty of two dozen charges by a Jackson County Circuit Court judge Friday.

"I got a check for 30 bucks and I'm gonna go get a beer," said John Thiry after his release from the Jackson County Jail. "I'm glad they came up with the right conclusions."

The 40-year-old homeless man said he still has no idea how fire appeared just inches from his feet in a grassy field on Aug. 24 in southeast Ashland.

The state had charged Thiry with 10 counts of recklessly endangering another and 14 counts of reckless burning related to the blaze, which burned 11 homes and caused more than \$3 million in property damage.

Prosecutors alleged at a bench trial before Judge Lorenzo Mejia that Thiry started a fire in the grassy field adjacent to Interstate 5 knowing the fire danger was extreme that windy summer afternoon.

The evidence showed ignition was caused by a match, a cigarette or both -- and Thiry was the source, said Michelle Pauly, a Jackson County district attorney.

"The fact that he chose to live outdoors does not excuse him of this conduct," said Pauly. "The defendant starts fires all the time. ... He has a fascination with fire."

Thiry became vocal and agitated during Pauly's closing comments. He was repeatedly hushed by his public defender, Andy Vandergaw.

"Now is not your time to talk," Vandergaw said.

Vandergaw argued the fire was an accident. His client did not have an awareness of the danger his actions posed. Vandergaw doubted whether a homeowner starting an accidental fire would have been similarly charged, he said.

"My client is a person who lives a minimal existence in a society that places little value on a person who does not, cannot or won't conform," Vandergaw said.

Thiry in all likelihood did start the fire, said Mejia after closing arguments Friday morning. But the state did not prove he was consciously aware of the damage that would come, the judge added.

Thiry appears to have committed criminally negligent acts. But under Oregon law, a person

must be consciously aware and consciously disregard the substantial risks of their actions to be found guilty of recklessness, Mejia said.

Mejia said "the most persuasive evidence" of Thiry 's lack of awareness came from the testimony of police officers. When questioned the night of the fire, Thiry flicked a cigarette within inches of more dry grass in front of the police, Mejia said.

"Every count is a verdict of not guilty," Mejia ruled.

About three hours later, Thiry was released from jail wearing plaid shorts, T-shirt and tennis shoes -- likely the same clothes he wore when he was arrested. Thiry said he would hitchhike or take a bus back "home" to Ashland. But first he was going to a bar.

"I'm gonna go get a beer," he repeated.

Thiry said he still doesn't know how the fire started.

"I woke up and there was a fire down by my feet," he said.

Thiry , who is known in Ashland for his sometimes bizarre and erratic behavior, said he received no medications during his 107-day incarceration, nor does he normally take any.

Plugging his transistor radio headphones into his ears, Thiry trotted away from television cameras and reporters.

Vandergaw said after the trial that Thiry is incapable of understanding the effects of his actions. He was targeted for prosecution because he was "a convenient scapegoat," Vandergaw said.

Thiry does not belong in jail or a state mental hospital, Vandergaw said. Were it readily available, Thiry could be in some sort of residential care facility where he could get assistance, he said.

"I feel very sorry for those people who lost their homes," Vandergaw said. "They are the victims of the way government is treating people like Mr. Thiry ."