

## Josephine Greensill Acquitted Of Indecent Assaults Allegedly Committed in 1979

Josephine Mary Greensill has been acquitted on appeal of indecently assaulting two 8-year-old boys in 1979 who were students at the school where she taught near Melbourne, Australia. She was released after 2 years and 4 months of imprisonment.

In 1979 Greensill was a 28-year-old third-grade teacher at the Bayswater Primary School in Bayswater, a suburb of Melbourne. Her name at the time was Josephine Sumpton.

Twenty-eight years later in 2007, two of her



Josephine Greensill after her release from prison on November 22, 2012. (Joe Armao, *The Age* (Melbourne, Australia))

former students accused her of sexually assaulting them in 1979 when they were 8 years old. They are only identified as “Jim” and “Dan.”<sup>1</sup> The police statements of Jim and Dan were the basis of the indecent assault charges filed against Greensill.

Greensill’s trial began in May 2010. Jim and Dan testified that in 1979 she invited them to spend the night in a tent in the backyard of her house on a Friday or Saturday night, after a big bonfire party at a local park. They testified that after they went to sleep Greensill came into the tent while her husband and children were in the house. They testified that over a long period of time she masturbated them individually and at the same time, and that she also had oral sex and intercourse with them. Dan testified that during this orgy he told Greensill, “I don’t want to do this. I want to go and play.” Dan also testified that while Jim and Greensill were together in the tent he saw her husband when he went into the house and got a drink of water. The next day she took them home.

Relatives of Jim testified he had never mentioned that anything of a sexual nature had ever occurred between him and Greensill. Jim’s older sister testified that when she was 14 she babysat the Greensill’s children on several occasions and that Jim was usually there with her. The police statement of Jim’s ex-wife was read into evidence, and she made no mention he ever told her that he and Dan had spent the night at Greensill’s house and that they had sex with her. What she did state is that after they were married in 1995 [Jim told her](#) Greensill “had done wrong by him and had tried to frame him with a theft of money,” and that “from time to time [Jim] would say things to the effect of, ‘Maybe I should track this teacher down, take her to court, sue her.’”

Greensill’s husband worked for the railroad and died in 2007 as the result of an [accident at a train](#) crossing. There was evidence that Jim, who also worked for the railroad, had learned of the accident that would result in a death payout to Greensill. It was shortly after the accident that Jim contacted the police in October 2007 and made his complaint about the alleged sexual assaults in 1979.

Both Jim and Dan testified they had no contact from 1979 until after they gave their

police statements in 2007. However, Detective Ian Brown testified that after Jim gave his police statement he gave him Dan’s telephone number. Det. Brown testified it was only after Jim and Dan talked that Dan gave his statement.

Greensill, a mother of five, didn’t testify. Her defense relied on her denials in her police statement the alleged sleep over and sexual activity never occurred. Although Jim and Dan acknowledged Greensill’s husband was in the house during the orgy they described, because of his death she didn’t have the benefit of his testimony about the night of the alleged incident.

There was no evidence the alleged crimes occurred except for the testimony of Greensill’s two accusers, but after an 11-day jury trial she was convicted on June 9, 2010 of committing nine counts of indecent assault against Jim and Dan.

Greensill was taken into custody on July 21, 2010. During her sentencing hearing on August 10, 2010 her lawyer stated in response to the judge asking if Greensill had any remorse: “I say nothing about remorse. There’s no admission of guilt, there’s no remorse.” The judge said she had “poisoned and eroded” much of the two men’s lives and sentenced her to 5 years in prison. He also ordered that when released she register as a sex offender for life.

Greensill’s appeal argued that her conviction was a miscarriage of justice, based on both the trial evidence that wasn’t sufficient to support her conviction, and new evidence she obtained after trial. Key new evidence was that after her conviction Jim filed a victim compensation claim and was paid \$62,735<sup>2</sup>, which directly conflicted with [his testimony](#) during cross-examination, “I want none of your client’s money”, and that he “just wanted the truth to come out.” Other key new evidence was that when interviewed by psychiatrist Professor Lorraine Dennerstein to determine damages for his compensation claim, Jim “[gave no description](#) to Professor Dennerstein of penile-vaginal penetration having taken place. In stark contrast, however, [Jim] told Professor Dennerstein of other incidents [as a minor involving women other than Greensill] where he claimed that penile-vaginal penetration had occurred.” Greensill’s appeals lawyer argued the new evidence established Jim had a financial motive to fabricate the incident, and that since his testimony about his alleged intercourse with Greensill was a centerpiece of the prosecu-

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astated my life.

Thank you to Professor Marshall for his medical work of healing the sick, and saving the life of an innocent person persecuted by the State for some 30 years.”

Von Deutschburg also thanked jury foreman Boer for supporting him “all these decades and for visiting me while I was in Fremantle Prison, (and) RP and all those who have variously helped over these past 30 years.”

[Click here to read](#) the March 1, 2013 ruling in *Von Deutschburg v. The Queen* [2013] WASCA 57.

#### Endnotes:

- 1 In March 2013 Dr. Barry James Marshall is a Clinical Professor of Medicine and Microbiology at the University of Western Australia in Perth, and a Consultant Gastroenterologist at Sir Charles Gairdner Hospital. He is also the Co-Director of the Marshall Centre for Infectious Disease Research and Training.
- 2 Email from Chris von Deutschburg to Hans Sherrer at Justice Denied on December 4, 2005.
- 3 Email from Chris von Deutschburg to Hans Sherrer at Justice Denied on February 12, 2005.
- 4 Email from Chris von Deutschburg to Hans Sherrer at Justice Denied on August 29, 2006.

#### Sources:

- [Von Deutschburg v. The Queen](#) [2013] WASCA 57  
[WA Nobel Prize winner Barry Marshall](#) reopens 1983 murder case, PerthNow (Perth, AUS), May 14, 2012  
[Murder charge appealed on new medical evidence](#) — 28 years on, *The Australian* (Sydney), May 15, 2013  
[DPP concedes ulcer ‘murder’ man](#) Chris von Deutschburg should be cleared, PerthNow (Perth, AUS), February 5, 2013  
[Chris von Deutschburg cleared](#) of 1983 ‘ulcer murder’, PerthNow (Perth, AUS), March 1, 2013  
[Dr. Barry Marshall](#) webpage, Nobelprize.org



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tion's case, his omission of it from his interview by Dr. Dennerstein in preparation for his compensation claim was additional evidence he fabricated the incident.

After a hearing on November 22, 2012, Victoria's Court of Appeals quashed Greensill's convictions as a miscarriage of justice, acquitted her of all charges, and ordered her immediate release from custody. The 61-year-old Greensill was released from prison after 2 years and 4 months of imprisonment.

Three weeks after Greensill's release, the Court released its 39-page ruling explaining why it acquitted her. In [Greensill v The Queen](#) [2012] VSCA 306 (December 13, 2012) the appeals court detailed nine key areas that made Greensill's convictions "unsafe and unsatisfactory" requiring her acquittal:

First, "the unlikelihood of the appellant interfering with two boys of eight years of age in a tent in the backyard of her premises while her husband (and children) were nearby. ... [that] involved masturbation, fellatio and sexual intercourse over a protracted period of time..."

Second, "the implausibility that eight year old boys would be capable – in the way graphically described by both [Jim and Dan] in their evidence – of completing full sexual intercourse with an adult female."

Third, "that [Jim and Dan] produced semen at the time of the sexual activities in the tent. This suggestion runs counter to common experience with respect to boys of this age."

Fourth, "the evidence discloses a real likelihood that [Dan and Jim] collaborated, and a real possibility of concoction."

Fifth, "there is independent evidence flowing from his ex-wife that [Jim] bore [Greensill] real animosity for some slight occurring in his childhood."

Sixth, "there is evidence that [Jim] may have had a financial motive in making a complaint."

Seventh, "there is the content of the Professor Dennerstein report, where [Jim] omits any reference to penile-vaginal penetration as part of the tent incident."

Eighth, "there are a number of inconsistencies between the accounts of the two complainants with respect to the tent incident and circumstances closely surrounding it."

Ninth, "there is the significant forensic

## Oregon Supreme Court Sets New Eyewitness Guidelines In Overturning Samuel Lawson's Murder Conviction

In unanimously overturning the aggravated murder convictions of Samuel Lawson, the Oregon Supreme Court established comprehensive new guidelines for the admissibility of eyewitness identification evidence in Oregon state courts.

At about 10 p.m. on August 21, 2003, Noris and Sherl Hilde were both shot in their trailer while camping in the Umpqua National Forest in Douglas County, Oregon. Mrs. Hilde was shot first, while standing at the trailer's window, and her husband was shot while talking to the 9-1-1 operator. Mrs. Hilde was seriously wounded but con-

disadvantage flowing to [Greensill] from being tried three decades after the offences are said to have occurred. A material part of the forensic disadvantage is the death of the appellant's husband."

[Click here to read](#) the appeals court's ruling in [Greensill v The Queen](#) [2012] VSCA 306 (December 13, 2012).

Days after her release Greensill [said when interviewed](#) by *The Age* newspaper in Melbourne: "I can't accept in my mind that it's over and I'm really home and I don't have to go back. It hasn't sunk in yet. It's very hard being in there [prison] when you're not guilty. But my three sisters and children and the letters and visits from people all said to hang on because justice will be done one day."

It isn't yet known if Greensill will file a lawsuit for compensation, or if the State of Victoria will attempt to recover the \$62,735<sup>2</sup> it paid to Jim as "victim" compensation.

The aspect of Josephine Greensill's case of particular interest to people in the United States are the State of Victoria's laws pertaining to "forensic disadvantage" that are specifically intended to protect a person such as Greensill from being convicted of alleged criminal conduct about which possibly exculpatory evidence doesn't exist because of the passage of time from when an alleged crime occurred and when a complaint was made. See, Section 61 of the

scious, and she told the 9-1-1 operator she didn't know who "they" -- referring to the shooter or shooters -- were who shot her and her husband. While emergency services personnel were transporting her to the hospital she stated repeatedly she did not know who the perpetrators were and she had not seen "their" faces.

When the Hilde's arrived at their campsite on the morning of August 21 a man named Samuel Lawson was camped there. When informed they had reserved the campsite the thirty-year-old Lawson apologized, he packed up, and about 40 minutes after the Hilde's arrived he left the area.

The day after the shooting Lawson voluntarily contacted the police when he saw news reports about the shooting. He told the police he had seen and talked with the Hilde's at their campsite the morning they arrived --

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Crimes Act and Section 165B of the Evidence Act, cited verbatim on pages 11-13 of the [court of appeal's ruling](#).

The appeals court judges in Greensill's case explained at length she was prejudiced because of the unavailability of possibly exculpatory evidence due to the 28 year delay from 1979 to 2007 for her accusers to file a complaint or apparently ever tell anyone about the alleged orgy in her backyard. The appeals court was particularly concerned that it was only after Jim knew Greensill's husband died that Jim contacted the police and he and Dan gave their statements. That deprived Greensill of her husband's testimony for the jurors to consider.

Endnotes:

1. "Jim" was identified in Court papers as "RS" and "Dan" was identified in Court papers as "SC."
2. Jim was awarded AU\$65,000 on April 13, 2012. That was \$62,735 at the exchange rate of AU\$1.036 to US\$1 on 4-13-12. There is no record that Dan submitted a compensation claim.

Sources:

[Greensill v The Queen](#) [2012] VSCA 306 (December 13, 2012)

[Court quashes sex offence conviction](#), *The Age* (Melbourne, AUS), December 10, 2012

[Doubts over accusers' evidence led to teacher's release](#), *The Age* (Melbourne, AUS), December 13, 2012

[Female teacher who abused boys](#), 8, in 1970s shows no remorse, *Herald Sun* (Melbourne, AUS), July 21, 2010

[Teacher Josephine Mary Greensill](#) jailed for sex with boys, 8, *Herald Sun*, August 10, 2010

