

The lesson of Rose-Tu and her calf

by Pamela Frasch, Guest Opinion

Monday September 29, 2008



PHOTO BY THE OREGONIAN - Rose-Tu and her calf, Samudra.

The Oregonian's Jonathan Nicholas wrote eloquently and convincingly recently about the "contemptible" practice of keeping elephants in captivity and the breeding programs that force elephants to live an unnatural life for their entire existence. Perhaps that might explain the bizarre behavior exhibited by Rose-Tu toward her newborn. But there may be another reason: The abuse she suffered eight years ago at the hands of one of her Oregon Zoo handlers may have compromised her ability to interact normally with her calf.

There is foundation for such a connection, particularly given the scientific evidence we now have regarding the rich emotional and social lives of elephants. If we choose to imprison these majestic creatures in an artificial environment for their entire lives, the least they deserve is protection from intentional abuse.

Readers of The Oregonian may recall that on April 17, 2000, an Oregon Zoo elephant handler tried to move Rose-Tu from one area to another within the elephant enclosure. Rose-Tu was just a youngster at the time and, confused by the handler's commands, balked and refused to move. In response, the handler beat and stabbed Rose-Tu with a sharpened bullhook.

An exam revealed that Rose-Tu suffered at least 176 lacerations and puncture wounds as a consequence. Some of the injuries were allegedly the result of the handler's attempt to shove the bullhook into the elephant's anus. Rose-Tu was so traumatized and agitated during her exam that additional injuries could not be identified.

To the zoo's credit, it fired the handler the same day. Incredibly, however, the Multnomah County district attorney's office initially refused to prosecute the man because the applicable anti-cruelty statute required proof that Rose-Tu suffered "substantial pain." Prosecutors believed that was an impossible standard to meet because Rose-Tu could not literally testify as a witness and her pain could not be measured. Taken to its extreme, such a standard would result in animal abusers never being prosecuted. This clearly was not the intent of our Legislature in passing anti-cruelty laws in the first place.

After much public outcry (and the good work of a Lewis & Clark Law School graduate and Animal Legal Defense Fund attorney, Dana Campbell, in locating a pre-eminent elephant expert who could testify to Rose-Tu's injuries and the pain she likely felt), the handler was charged with second-degree animal abuse. He pleaded no contest and was sentenced to two years of probation and 120 hours of community service and was restricted from having any contact with animals while on probation.

That minimal sentence was the best Oregon state law could do at the time. The good news is that because of the prosecutor's initial reluctance to bring charges in the case, the Legislature passed a law (written by another Lewis & Clark Law School graduate and ALDF legislative director, Stephan Otto) to eliminate the subjective measure of pain as an element required to prove animal cruelty.

What will the future hold for Rose-Tu and her calf? It's hard to say. What we do know, however, is that committed law students, lawyers and legislators exposed to and educated in the field of animal law can help change the world for the animals we cherish.

As we continue to evolve in our willingness to consider the interests of animals when making policy or passing laws, let's remember Rose-Tu and her calf.

Pamela Frasch is executive director of the Center for Animal Law Studies at Lewis & Clark Law School.