

Case Name:
R. v. Small

Between
Her Majesty the Queen, and
Leanne Small

[2005] O.J. No. 1430

Information No. 16301(02)/04

Ontario Court of Justice
Cambridge, Ontario

D.G. Carr J.

Oral judgment: February 3, 2005.

(11 paras.)

Criminal law -- Sentencing -- Particular sanctions -- Probation -- Conditions.

Sentencing of the accused, Small, who pled guilty to the charge of cruelty to animals. She had locked the dog in a cage and withheld his food. Small had no criminal record.

HELD: Small was sentenced to a 12-month period of supervised probation with conditions including 60 hours of community service and rehabilitative programs. She was prohibited from having care of any animal and required to make restitution to the SPCA of \$897, jointly and severally with her husband.

Statutes, Regulations and Rules Cited:

Criminal Code, ss. 446(1)(a), 446(5), 738.

Charge: S. 446(1)(a) Criminal Code - Cruelty to Animals

Counsel:

J. Young Counsel for the Crown

B. Fogo Duty Counsel for Leanne Small

REASONS FOR SENTENCE

1 D.G. CARR J. (orally):-- Stand up please? Can I see the information please? Thank you. This is absolutely appalling treatment of a defenceless animal. Yes, I can accept that maybe the dog was not properly trained in regard to going to the washroom but locking him in his cage and then not feeding him, and I know you said you fed him but the pictures tell a different story quite frankly. This dog had not been fed a good meal for a very long time. It is disgraceful treatment of a defenceless animal and there is no doubt in my mind that you should not be in a position to have in your care, I say that very loosely, any animal or bird for the maximum period allowed by the Criminal Code. Your husband, David Small received a one-year probationary order and I do not see any reason to deviate from that. I note that you have entered a plea of record, sorry, a plea of guilty and you have no prior criminal record.

2 So I am going to suspend the passing of sentence and place you on probation for a period of 12 months with the following terms and conditions:

3 You will keep the peace and be of good behaviour. You will appear before the Court when required by the Court to do so. You are to report within two working days in person to a probation officer and be under the supervision of such officer or a person authorized by that individual to assist in your supervision and report at such times and places as you may be required to report.

4 Again, with deference to Justice Downie, I think you need to perform 60 hours of community service work and the only reason that it is slightly lower than that given to your husband is because you have the charge and care of four children. I think 60 hours is fair having regard to the treatment that you meted out to this poor animal. The work will be completed at a rate of not less than six hours per month and in consecutive months and be completed to the satisfaction of the probation officer or designate within a period of 12 months, which is the period of time of this probation order.

5 You are to attend and actively participate in any rehabilitative programs determined appropriate for you by your probation officer. I am going to leave it to you and your probation officer if there is some counselling that is necessary, I expect you to fully co-operate.

6 In addition, pursuant to section 446(5) of the Criminal Code, I prohibit you from having in your possession the care of any animal or bird. The restitution to the S.P.C.A. of \$897.98 that was made by Justice Downie against David Small, I make that same amount of restitution against you Leanne Small, jointly and severally with him. In other words, if he does not pay it you must pay it, so that must be paid, that restitution. That will be by way of section 738 order at this point in time, which is restitution by way of a compensation order.

7 Do you understand all the terms of probation?

8 MS. SMALL: Yes, I do.

9 THE COURT: All right. I will waive the victim surcharge. That will be the disposition.

10 COURT CLERK: The other counts?

11 MS. YOUNG: They could be withdrawn please? Thank you very much, Your Honour.

qp/s/qlsxk