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R. v. Conforti

Between

**Her Majesty the Queen, (respondent), and
Enrico Conforti, (appellant)**

And between

**Julie Woodyer, Agent of the Peel Humane Society,
(appellant/prosecutor), and
Enrico Conforti, (respondent/defendant)**

[2000] O.J. No. 1729

Nos. C29873 and C29884

Ontario Court of Appeal
Toronto, Ontario

Catzman, Weiler and Laskin JJ.A.

Heard: May 16, 2000.

Judgment: May 23, 2000.

(5 paras.)

Animals -- Care of animals -- Cruelty to animals.

Appeal by the accused, Conforti, from a decision by a summary conviction appeal court judge finding the trial judge's acquittal of Conforti on the first count perverse. The Humane Society cross-appealed Conforti's acquittal on the second count, arguing that Conforti failed to authorize medical treatment for the dog once it was in the veterinarian's office.

HELD: Appeal allowed and cross-appeal dismissed. There was evidence on which the trial judge could make the findings he did, and therefore the summary conviction appeal court judge erred in finding the verdict perverse. On the second count, the evidence could not support a finding that Conforti wilfully neglected to provide adequate care for the dog.

Appeal from:

On appeal from the decision, dated May 4, 1998, of Langdon J. sitting as a judge of the summary conviction appeal court.

Counsel:

Anthony E. Bak, for Enrico Conforti.
Simon Shields, for the Peel Humane Society.

The following judgment was delivered by

- 1 THE COURT (endorsement):-- In our view, the appeal must be allowed and the cross-appeal must be dismissed.
- 2 The trial judge found Mr. Conforti's evidence clear and straightforward, and expressed himself to be satisfied with the reasonableness of Mr. Conforti's actions. There was evidence on which the trial judge could reasonably make the findings and reach the conclusions that he did, and therefore the summary conviction appeal court judge erred in law in holding the trial judge's verdict to be perverse. Accordingly, Mr. Conforti's appeal with respect to the first count must succeed.
- 3 On the cross-appeal, the Peel Humane Society advanced in this court the argument that Mr. Conforti should have been convicted on the second count because he failed to authorize medical treatment for the dog once it was in the veterinarian's office. The evidence about what Mr. Conforti was prepared to do at that stage is somewhat conflicting but, at minimum, it could not support a finding that he wilfully neglected or failed to provide suitable and adequate care for the animal. Accordingly, the Society's appeal with respect to the second count must fail.
- 4 Leave is granted on both the appeal and the cross-appeal. The appeal is allowed, the order of the summary conviction appeal court judge is set aside, and the acquittal on count 1 is restored. The cross-appeal is dismissed.
- 5 We do not consider it appropriate to make any order as to costs.

CATZMAN J.A.
WEILER J.A.
LASKIN J.A.

cp/e/nc/qlrme