

*Case Name:*  
**R. v. Jolliffe**

**Between**  
**Her Majesty the Queen, and**  
**Ralph and Lee Jolliffe**

[2001] O.J. No. 6037

Information No.: 01-30550 and 01-30551

Ontario Court of Justice  
Ottawa, Ontario

**White J.**

Heard: December 13, 2001.  
Oral judgment: December 13, 2001.

(82 paras.)

*Charges: S. 446(1)(c) -- Cruelty to animals x 2.*

**Counsel:**

M. Lindsay, for the Crown.  
The accused, on their own behalf.

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PLEA OF GUILTY -- SUSPENDED SENTENCE

- 1 **WHITE J.** (orally):-- Mr. and Mrs. Jolliffe, what is your intention this morning?
- 2 **MR. JOLLIFFE:** Our intention is to plead guilty this morning Your Honour. We would like a little bit of an explanation first or possibly a second set of proposals that you might consider?
- 3 **THE COURT:** Would you come forward please? Would you expand on that please?
- 4 **MR. JOLLIFFE:** Well yes, when we were in your Chambers we had agreed for several things to go on.
- 5 **THE COURT:** Yes?

6 MR. JOLLIFFE: The probation, I don't think there would be a difficulty with, with the proviso that my wife's employment not be affected.

7 THE COURT: Yes.

8 MR. JOLLIFFE: The other that I requested was the reduction in the amount of the fees back to The Humane Society be reduced from the \$3,000 that is requested down to the \$1,000 that has already been paid?

9 THE COURT: Has that been agreed upon?

10 MR. JOLLIFFE: Unfortunately we are unable to agree on that amount. I was hoping that Your Honour might be able to award that as it was a result of inconsistent actions at The Humane Society that led to the larger amount being required.

11 THE COURT: Well, Mr. Lindsay do you have any comment on that?

12 MR. LINDSAY: Your Honour there have been meetings between Inspector Laframboise and Mr. Jolliffe about that. We are steadfast in the amount of restitution that we are suggesting the Court award here. We have prepared a breakdown of the costs but of course it's up to Your Honour's discretion once you've heard from the Jolliffes and you've seen our breakdown to decide what a fair and reasonable amount of restitution would be.

13 THE COURT: Well I understood that the restitution was to be agreed upon. I can tell you sir that - you're suggesting that it was an inconsistency in what, in the treatment that resulted in the amount of - that is being proposed? My thought would be none of this would have happened if the animals had been properly treated.

14 MR. JOLLIFFE: Um, yes Your Honour, uh.

15 THE COURT: So I'm not inclined to part from - is it \$2,000 that's agreed upon now?

16 MR. LINDSAY: It's \$3,000 Your Honour. The original gross amount was actually close to \$9,000 but we've agreed to - and then actually the supportable amount was \$5,157. Paid on that if \$1,000 in June and we're prepared to reduce it even further to \$3,000.

17 THE COURT: \$3,000.

18 MR. LINDSAY: I do have the list for Your Honour here.

19 THE COURT: Well, so that's my feeling on the matter sir.

20 MR. JOLLIFFE: It is understandable but as I mentioned before at the beginning of week one of this, it was requested that the animals be moved from the shelter to my wife's facilities. We were told, at that point in time, that that would not even be considered.

21 THE COURT: Well I can understand that sir having looked at the photographs.

22 MR. JOLLIFFE: No, there was some grooming facilities in town. These facilities were subsequently approved without any upgrade or change in the facilities.

23 THE COURT: These facilities were - whose facilities were they?

24 MR. JOLLIFFE: My wife's grooming facilities. We have a shop - we had a shop in town. It's in a warehouse district on Capital Drive. These are the facilities that the animals were moved to from the Humane Society.

25 THE COURT: Well, at such an early stage I can well understand that there would be hesitation in having your

wife caring for animals - at that early stage.

**26** MR. JOLLIFFE: There seemed to be no problems at that time from The Humane Society in moving the animals to another spot other than the home that they were moved out of, as long as they were approved. That was my understanding at the beginning of week one.

**27** THE COURT: All right, I'm not going to argue the matter. I simply want to let you know that it will be \$3,000 in restitution, if you plead guilty.

**28** MR. JOLLIFFE: Thank you for the consideration Your Honour. We will plead guilty at this time.

**29** THE COURT: Very well then. Arraign Mr. and Mrs. Jolliffe.

**30** MR. LINDSAY: Yes, it will be Count 2 please for both Mr. and Mrs. Jolliffe.

**31** CLERK OF THE COURT: Count 2? Do you wish both to be arraigned at the same time then Your Honour? It's different Informations but..

**32** THE COURT: You can arraign both at the same time.

**33** CLERK OF THE COURT: Thank you. If you'll both stand please. Lee Jolliffe and Ralph Jolliffe, you are both charged that between the 1st of March 2001 and the 10th of May 2001 at the City of Ottawa, in said east region, being the owner or persons having custody or control of domestic animals, to wit, seven dogs, two guinea pigs, two rats, a rabbit, one cat and twenty-two poultry, wilfully neglected or failed to provide suitable and adequate food, water, shelter or care for the said animals, contrary to Section 446(1)(c) of the Criminal Code of Canada.

**34** Lee Jolliffe, how do you plead to this charge, guilty or not guilty?

**35** MRS. JOLLIFFE: Guilty.

**36** CLERK OF THE COURT: Ralph Jolliffe, how do you plead to this charge, guilty or not guilty?

**37** MR. JOLLIFFE: Guilty.

**38** CLERK OF THE COURT: Thank you. Please be seated.

**39** MR. LINDSAY: Yes Your Honour, this matter is involved with the premises at 3161 Maki(ph) Drive in the City of Ottawa area and the month of May 2001.

**40** On May the 8th the Sheriff's Department called The Ottawa Humane Society because they were serving an eviction notice at the premises on Maki Drive which was occupied by the Jolliffes. The Sheriff's Department indicated that when they got there they noted a number of animals that they felt needed to be removed from the premises to effect the eviction.

**41** Four Humane Society employees and three Municipal By-Law Officers attended at the residence to assist with the removing and transporting of animals from the property. Upon inspection of the residence and other buildings on the property, forty-eight animals of various species were found, including domestic fowl, guinea pigs, rats, birds, fish, one cat and seven dogs.

**42** Upon entering the residence there was a very strong smell of garbage, feces and urine coming from the inside of the premises. The interior was filthy. There was garbage in every room. The floors were covered in dirt and grime and there were clothes piled everywhere. Except for one dog, the rest were housed in wire crates that appeared not to have been cleaned for a long time. There were feces and urine caked on the bars and any paper that was left in the bottom of

the cages was torn and filthy. There was urine and feces noted on the walls closest to the crates where the male dogs had defecated through the bars. The last dog was found in the bathroom. The smell of urine was overpowering and the room was full of urine stained blankets. The toilet was empty of water and stained and the bathtub was wet and stained with urine. The room that the cat was removed from smelled of urine and feces and had a litter box that had not been cleaned for a long time. The floor was black with grime and the bathtub contained feces.

**43** Another room with an en suite bathroom was searched and the toilet was full to the rim with human waste. The laundry room was full of wet clothes so that the floor wasn't even visible. The Officers then attended at the rear of the property and found a shed there that contained three turkeys, nine hens, two meat birds and one duck. There were boards laying on the floor of the shed against the walls covered with feces. In a corner of the shed was a dog crate with a dead turkey inside. There was a Rubbermaid bin three-quarters full of food but there appeared to be no food or water left out for the animals at this time.

**44** The animals then were removed to The Humane Society shelter and they were attended to by Dr. Bernie Pukay of the hospital attached to the shelter. He examined the seven dogs and the cat. The cat appeared in good condition but all the dogs were in various stages of neglect from moderate to severe, and required medical attention. All seven dogs were suffering from severe flea infestation and dental problems caused by tartar accumulation. Most of the dogs were also suffering from various skin conditions, hair loss, ear and eye infections indicated by oozing discharge and inflammation of the eyes and ears. One female Lhasa Apso dog had an eye that was severely damaged and ulcerated and the eyeball was partially ruptured, indicating that it was in that state from two to four weeks without proper treatment.

**45** Treatments for each dog was initiated by The Humane Society and in June - June 1st Dr. Pukay(ph) re-examined the animals and all the dogs had dramatically improved after receiving appropriate care and treatment from the staff for the three weeks that they remained at The Humane Society shelter. As Mr. Jolliffe mentioned, eventually they were returned to the Jolliffes.

**46** Your Honour, in support of our application for \$3,000 in restitution I have a breakdown provided to me by Inspector Laframboise and one to be filed with the Court.

**47** THE COURT: All right, that will be filed, Exhibit 1.

EXHIBIT NUMBER 1: Breakdown of costs accumulated by Humane Society for Restitution - produced and marked.

**48** MR. LINDSAY: I'm just wondering if either of the Jolliffes have any questions of me on the evidence?

**49** THE COURT: Yes. Do you have any dispute on the facts as indicated by Mr. Lindsay, Mr. or Mrs. Jolliffe?

**50** MR. JOLLIFFE: No.

**51** THE COURT: All right. Can we have the photographs filed as well as Exhibit 2?

**52** EXHIBIT NUMBER 2: Photographs - produced and marked.

**53** THE COURT: Anything further Mr. Lindsay?

**54** MR. LINDSAY: Your Honour, if the Jolliffes don't have any questions of me then I do submit that that evidence is sufficient to support a finding of guilt on Count 2 for both accused.

**55** THE COURT: You have nothing further to add on this issue?

**56** MR. JOLLIFFE: No Your Honour.

**57** THE COURT: There will be a finding of guilt against both Lee Jolliffe and Ralph Jolliffe. What about this matter

of the donation? Has that been made?

**58** MR. LINDSAY: Arrangements have been made with Inspector Laframboise Your Honour that the donation will be paid by Monday and a cheque is being provided today which the Jolliffes have undertaken that there will be sufficient funds by Monday, should the cheque be cashed. I would appreciate a Court Order from Your Honour that by Monday, at the latest, funds are to be available to satisfy that.

**59** THE COURT: Is there anything you wish to say Mr. and Mrs. Jolliffe? We have the conditions of probation which you have a copy of. Any issue on those?

**60** MR. JOLLIFFE: No Your Honour.

**61** THE COURT: Mrs. Jolliffe?

**62** MRS. JOLLIFFE: No.

**63** THE COURT: Nothing. Similarly with respect to the donation of \$500, there's no dispute on that?

**64** MR. JOLLIFFE: It's being forwarded as we speak.

**65** THE COURT: The cheque is there. Very well then.

**66** I'm going to suspend the passing of sentence upon this charge with respect to both of you.

**67** There will be a Section 738 Restitution Order against Lee and Ralph Jolliffe, jointly, in favour of The Ottawa Humane Society in the amount of \$3,000.

**68** You will be placed on probation, both of you, for a period of twenty-four months upon the following conditions:

- \* You will keep the peace and be of good behaviour, which simply means commit no other offences of any nature;
- \* you will report, as required, to and be under the supervision of a probation officer;
- \* you will notify your probation officer of any change in your place of residence not later than two months before the expiration of this probation order;
- \* you will satisfy, in full, the joint Restitution Order made this date in favour of The Ottawa Humane Society in the amount of \$3,000. The said amount represents the total to be paid by you and your spouse.
- \* In the meantime, you will make such partial payments, on account thereof, as and when directed by your probation officer.

**69** Do you follow that?

**70** MR. JOLLIFFE: Yes Your Honour.

**71** THE COURT: You shall permit officials of The Humane Society to inspect any premises, building or property under your control in order to insure that any animals or birds under your care are being properly cared for.

**72** No difficulty with that?

**73** MR. JOLLIFFE: None at all Your Honour.

**74** THE COURT: Should officials of The Humane Society conclude that any animal or bird under your care is not being properly cared for, you shall not interfere with the removal of such animal or bird to The Humane Society shelter.

**75** You shall provide proper treatment by a veterinarian or otherwise as recommended by officials of The Humane Society, at your expense, to any animal or bird under your care. That's agreed?

**76** MR. JOLLIFFE: It's agreed, Your Honour.

**77** THE COURT: You are not to have possession of any animal or bird except those agreed upon with Inspector Lamframboise of The Ottawa Humane Society and solely for the purposes of the employment of Lee Jolliffe as an Animal Groomer. Agreed?

**78** MR. JOLLIFFE: Yes sir.

**79** THE COURT: And finally, within one week of this date, you shall jointly make a donation in the amount of \$500 to The Ottawa Humane Society. That is represented by the cheque I gather you've given.

**80** Now, I have to caution you that if you fail to abide to any of these conditions of probation you may be charged with a breach and sent to jail for up to two years.

**81** No Victim Fine Surcharge. Madam Clerk, these are the conditions. There's nothing further then?

**82** MR. LINDSAY: That's fine, thank you Your Honour.

WHITE J.

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