

Citation: R. v. Bodnar

Date: 20090818

File No: 79245-1

Registry: Port Coquitlam

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

REGINA

v.

STEVEN JOHN BODNAR

**ORAL REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE POTHECARY**

Counsel for the Crown:

G. Barnes

Appearing on his own behalf:

The Accused, S. Bodnar

Court Recorder:

R. Mise

Transcriber:

S. Wilson

Place of Hearing:

Port Coquitlam, B.C.

Date of Hearing:

August 18, 2009

Date of Judgment:

August 18, 2009

[1] **THE COURT:** This is a case of what is commonly called cruelty to animals. There are two counts:

(1) under s. 446(1)(c) of the **Criminal Code** Mr. Bodnar is charged that on or about the 11th day of September, 2007, at his home in Maple Ridge, while being the owner or the person having custody or control of domestic animals to wit: 6 dogs, did wilfully neglect or fail to provide suitable and adequate food, water, shelter and care for them;

(2) the second count is under s. 24(1) (as it was at that time) of the **Prevention of Cruelty to Animals Act**, R.S.B.C. 1996, c. 372 on the same date and place that Mr. Bodnar, being a person responsible for animals being the 6 dogs caused or permitted the dogs to be or to continue to be in distress.

[2] The circumstances here start in late 2006 and early 2007 when a series of complaints were made to the SPCA with respect to dogs at the residence of Mr. Bodnar which is large farm kind of area in the Maple Ridge vicinity. They were told that these dogs were Malamutes and that there were complaints being made with respect to the conditions in which they were being kept.

[3] The first complaint was investigated in September 2006, when a Special Constable attended and found that that complaint was unfounded.

[4] A further complaint was made and attended to on March 6th, 2007. At that time the complaint was found to be valid by the Special Constable with the SPCA. She found that the kennels were dirty, they were coated with excrement, and that the dogs were thin. Orders were issued. There was a re-check made of the kennels and it was found that the orders had in fact been complied with.

[5] On May 10th, 2007, a further complaint was received that several dogs were being kept in an unsanitary environment; they were not allowed to exercise; that one dog was circling repetitively because of lack of exercise and mental stress.

[6] The file was transferred to another Special Constable and on May 13th that Special Constable went to the property and met with Mr. Bodnar. He identified himself as the owner of the five Malamutes that were present as well as the caregiver for a Rottweiler that was in the kennel.

[7] The kennel was described as a fairly large rectangular structure that had six smaller individual kennels and a large common area. Three of the dogs at the time that the inspector was there were loose within the common area and three were kennelled. There was a large roof over the kennel, and the walls were made of chain-link fencing. Mr. Bodnar cooperated with the Special Constable and identified which animals were where.

[8] The ones that were kennelled were the Rottweiler and Eva, the oldest female, and Seahawk, who I think is one of the younger Malamutes.

[9] It was noted at that time that the common area had two very large piles of mixed excrement and sawdust some three to four feet wide and four feet high. In addition, there were approximately 20 piles of excrement in the common area. There were three water buckets in the common area; two were empty and one had perhaps two inches of water in it. That water was polluted with dirt and had hair floating in it.

[10] In the kennel with the Rottweiler which is about a four foot by eight foot kennel there was a bucket with water which was discoloured. There was a small box at the back with sawdust in it and that was soiled.

[11] Seahawk was also in a separate pen which contained a large pile of mouldy excrement and another 20 or so individual piles there, plus seven piles of excrement around the rest of the perimeter.

[12] Eva's pen contained a larger pile of mouldy excrement in the middle, some three feet by three feet. There was nowhere for the dog to go to get out of the excrement or away from it. There were other piles of excrement littered around and nowhere clean and dry for the dog to lie down.

[13] Similarly, there was nowhere in Seahawk's pen to lie down in clean quarters. There was a little bit of room in Sadie's.

[14] All the pens had boxes of sawdust as beds and these were filled with excrement and urine, so again no clean place.

[15] The inspector asked to check the dogs individually so Mr. Bodnar then let three out into the yard where they ran. He told the inspector to go get them but then he eventually helped to collect them.

[16] With regard to Blackhawk, a four-year-old female, upon inspection the Special Constable could easily feel the spine, hip and ribs; the dog was thin.

[17] On Blackjack, a four-year-old male, the inspector could easily feel the hips and ribs, though not as prominent as in Blackhawk.

[18] Charger, who was identified initially as a female but turned out later to be a male, was a couple of years old. The hips, ribs and spine were easily felt, and the dog was thin.

[19] Seahawk, a two-year-old female had large areas of matted hair behind the ears and on her back. She had longer hair than the other Malamutes and there was also a concern with respect to her weight but she was not as thin as the rest.

[20] Eva, an eight-year-old female, did not cause the same concerns for her weight.

[21] Mr. Bodnar at that time said that the Rottweiler and Eva were both aggressive with other dogs and were kennelled separately, however, it should be noted that when Eva was later at the SPCA in the fall she socialized well. That was not the same for Sadie.

[22] The primary concerns were that they were underweight and there was an overwhelming smell of urine and excrement in and around the kennel. There was nowhere clean for these dogs.

[23] During the time that the inspector was there Mr. Bodnar picked up a shovel to move some of the small piles to the large pile in the kennel but that was simply moving it out of the way, and not in fact cleaning.

[24] Efforts were made to contact the owner of the Rottweiler but those ended up being unsuccessful.

[25] In the course of discussions, firstly with respect to the Rottweiler, Mr. Bodnar said that the female Rottweiler had come to be boarded at his place in approximately September 2006 and that she was very overweight when she first arrived so he put her on a diet. He said he was feeding the Malamutes eight cups of food per day, a salmon based pro plan and that the Rottweiler had six cups of food per day as the dog was on a diet.

[26] The Rottweiler's hips were prominent although she was less underweight than Blackhawk and Charger. The inspector advised Mr. Bodnar to take her off the diet. He said the dogs were thin

because they were receiving too much exercise running around in the yard. He commented that he was no longer with his wife so it was harder for him to care for the dogs.

[27] At that time, Mr. Bodnar was offered a choice of surrendering one or more of them to the SPCA so that they could be cared for and adopted thereby making it easier to care for the others by having fewer to tend to. He refused, saying he was planning to sell Seahawk and said he was only going to be there a few more weeks. He said they were prize show dogs, all but the Rottweiler, although it was the opinion of the inspector that they did not look like that. He said he usually took them to the vet annually or when the rabies shots were due although they had not gone recently.

[28] Orders were then issued by the SPCA inspector, firstly with respect to the environment, that it should be clean and sanitized; to have appropriate shelter and living conditions, not simply by hosing down and removing the excrement, but actually sanitizing it because of the urine, and then secondly to have clean water available at all times and to provide an environment where the animals were both stimulated and where they had clean places to be.

[29] The turning behaviour was described by the inspector as being typical for dogs under high stress, often if they have been kennelled too long without other activity or other stimulation and that this in itself is dangerous as they can get

a repetitive injury from striking the same spot from tracking the same circle for significant periods.

[30] It was also the view of the inspector that because the shelter did not give any windbreak and there were no dog houses or similar structures within the kennel, that the shelter was not adequate. It was covered for rain but rain could blow in the sides and there was no protection for the dogs from that.

[31] It was also felt for the two dogs that were not well socialized that having closed-off kennels for them to get to their own dog houses would allow them also to be able to withdraw from the company of the other dogs and be healthier dogs.

[32] The orders were issued and served May 13th, 2007. They included taking Blackhawk, Charger and Sadie, the Rottweiler, to a vet within a week, the concern being that with them being so underweight that perhaps they had parasites and the dogs could all be treated at the same time. If they did not gain weight then all of the dogs -- all six -- should be taken to the vet later.

[33] Mr. Bodnar had 48 hours to clean and sanitize the kennel plus he was required to immediately provide potable drinking water for the animals. The order also included providing shelter for Sadie and the others before the end of the summer so that they would have an opportunity to withdraw. He appeared to

understand this and he was advised that he was required to comply with these orders. If he did not do so, there would be further action taken.

[34] At that time it was the attitude of the officer from the SPCA to try to get things to work, to make things better, and have these happy dogs and well cared for dogs, not to carry out enforcement action that would result in the loss of the dogs to this family.

[35] On May 16th, the SPCA attended again at the residence and spoke with the daughter, Jessica. She identified herself as Mr. Bodnar's 14-year-old daughter. She said that her father was at work but provided a phone number and the officer telephoned him at work recognizing his voice. He was told at that time that they had gone to the property to re-check the dogs. He said that he was held up at work and was unable to meet them but suggested that the SPCA officer check the kennels with the daughter. They got the okay to do this and they phoned back and said that they were going to go look at the kennels with his permission. They were told that that was okay, that they could go to the kennels but that they could not go inside.

[36] They all went back and they saw that the kennels were clean. There were two or three piles in each pen and in the common area so that would be about a day's worth of excrement. Sadie, Seahawk and Eva were again kennelled individually with the other three in the common area. Although it visually

appeared clean, there was still a very strong smell of urine and still some excrement and it did not appear to have been sanitized. There were animal bones in the kennel for Seahawk and Eva but not for Sadie.

[37] They then called Mr. Bodnar back and told him that there had been improvement, but it still needed to be sanitized and disinfected. When asked if he had a bone for Sadie, he said that they had all had bones earlier that day. He commented that he had spent some \$36.00 on bones and that they were gone in five minutes.

[38] He was told that they were dogs that needed environmental stimulation, that it was good that they get some and perhaps they could get more. He was told that they were to be kept clean on a regular basis and they must stay clean. He replied that it was his daughter's job. He was told that she is simply 14; it was his responsibility and if he did not clean properly, he would be the person held ultimately responsible. He said he understood and would see if he could maybe get more information with respect to the Rottweiler.

[39] On May 22nd, 2007, the SPCA phoned and left a message for Mr. Bodnar to call but there was no reply. They attended at the residence just after 5:00 p.m. Jessica was there and commented that her father was at work but would be home soon. They left a card for him to call. He did not and when they drove by again at 8:00 p.m., he was still not home from work.

[40] They called Mr. Bodnar again on May 23rd, 2007, and a message was left asking that he call the SPCA officer about the dogs. There was no call at 6:00 p.m. The officer attended at the property. There was no response to any knocks on the door and a notice with the date and time was left indicating an animal in distress complaint and to call within 12 hours to avoid legal action.

[41] About an hour later, a phone call was made by Mr. Bodnar to the SPCA officer saying that he had taken the dogs to the vet, that they had diarrhea from having the bones and that the vet blamed the SPCA for this as the SPCA had forced him to give the dogs bones. He was reminded of the option to give them toys, and he said that the vet recommended feeding them hamburger meat until they gained weight and then to go back on the regular diet. He was to provide the vet's name so that the officer could follow-up with the vet but did not do so, however, the address he gave for the vet was one familiar to the SPCA officer. She called the clinic and was told there was no record of a visit there within the previous 48 hours by Mr. Bodnar.

[42] Later, the officer went back to Mr. Bodnar's residence and told him that this was the information she had received from the vet. He then acknowledged that in fact he had not taken them to the vet. He had only gone in and purchased some wormer for the dogs. He advised that the dogs did not have worms as no worms were found in the excrement after using the wormer.

[43] By not taking the dogs to the vet, he was in contravention of the order.

[44] Mr. Bodnar then said that the reason the dogs were thin was from lack of food as he had gone on vacation and the caregiver was not feeding the dogs; however, now that he was back they were being fed and they were gaining weight. The officer did not see the dogs on that day. He was not prepared to allow them to see the dogs as he said that they were costing him too much money, from requiring the bones and the worming, et cetera.

[45] He was advised of the legal ramifications of this and that if they did not in fact demonstrate they could work together, the SPCA could then get a search warrant. He basically suggested that they should do that.

[46] Numerous other efforts were then made to follow-up with respect to the dogs.

[47] The next was July 1st, 2007 when the officer went to the residence. Mr. Bodnar answered the door. He was advised that they were there to re-check the order on the Malamutes and see if they had gained weight. He said it was a bad time and preferred that she come back another day. She did not see the dogs then.

[48] On July 11th, the SPCA officer telephoned and left a message for him to call her. That did not happen.

[49] On August 14th, 2007, she phoned again and left a message with Jessica, the daughter, for Mr. Bodnar to call. He did not. The next day, however, August 15th, he left a voice mail from the message received from the daughter and called back leaving a message.

[50] On September 4th, 2007, just before 6:00 p.m., the SPCA went to the address again. Nobody answered. Notices were left on both the front and the side doors to contact the officer and that this should be done as soon as possible. Two hours later, the officer returned and saw that both the notices had been removed from the two doors. However, there was no reply to her knocking. A notice was then left to call within 12 hours.

[51] The following day, Mr. Bodnar called and left a message saying that he would charge the SPCA with trespass if they were to come on his property again. At 10:54 in the morning, the officer called back and said that they needed to see the dogs to confirm a weight gain and he said he would be home about four days later and that would be a better day. He also said he would call and let her know if he was not going to be there. She indicated to him that the orders would have to have been complied with when she got there.

[52] She attended on September 9th which is the day that was set. It was shortly before 5:00 p.m. Mr. Bodnar had said to come at any time, but there was no reply to the knocks. Another notice was left. A few minutes later, he telephoned and said he

was out for the day and would not be back until late that evening. She asked to meet again and he said he was working six days a week, days and evenings, and that he really did not have any interest in spending his only day off dealing with the SPCA. He also commented that if the SPCA came on the property again he would sue them, so the situation was clearly deteriorating.

[53] On September 11th, 2007, the officer then applied for and obtained a warrant to search. The intention was to check the animals. They attended that day in the company of two other Special Constables as well as a veterinarian and a member of the RCMP present to keep the peace, arriving shortly before 7:00 p.m. Jessica, the daughter, answered the door and Mr. Bodnar came to the door. He was given a copy of the search warrant.

[54] Mr. Bodnar commented at the time that if they hurt the dogs he would sue, and if they got bit, it was their own fault.

[55] When they attended at the kennels there was a strong odour of urine and excrement. There was a wheelbarrow full outside the kennel, another large pile inside the kennel and throughout the pen including with the diarrhoea. There was one bucket about a third full of a black-green coloured liquid and two empty buckets. In the common area were Blackhawk and Blackjack and the only water available was dripping from a sink to the dirty floor. Those dogs were both engaged in repetitive circling and drinking water as it dripped.

[56] Finally Mr. Bodnar and his daughter came to the kennel and commented that the dogs had been trained to circle as they were confirmation dogs.

[57] The relationships of the various dogs were set out. They are mostly related in one way or another. Four of the dogs were penned.

[58] Sadie's pen had some shavings but they were urine soaked and an inch of water in a small bucket.

[59] Seahawk's pen had no water; urine and excrement were throughout, including six piles of excrement.

[60] Eva had eight piles of excrement in the kennel and a third of a bucket of dirty water.

[61] Charger had six or seven piles of excrement, urine soaked in that pen, as well as about an inch of water and a bone.

[62] None of those dogs had a clean place to rest.

[63] In the common area, there was nowhere that was clean and dry. Seahawk's coat continued to be matted and there was no food visible.

[64] The doctor examined the six dogs and ultimately as a result of his observations and his scoring of them by a standardized scoring method, he determined that in his opinion these were dogs in distress that needed to be removed.

[65] The scoring system is a standardized method of evaluating the dogs in terms of their apparent physical health and size. There is a scale of one to nine and healthy dogs should be in the four to six range. He found all of the Malamutes were in either one or two condition which is critical condition, being significantly and seriously underweight. The Rottweiler was a three, which was not a critical underweight but was nonetheless underweight.

[66] It was ultimately the decision of the SPCA officer to remove Sadie in addition to the Malamutes because of the non-compliance with the order and the living conditions in which she was being held.

[67] A number of observations were made of the dogs at the time that suggested these were dogs that appreciated being out of the kennel, but they were overall cooperative in terms of being dealt with by the investigators. They were all removed to a kennel operated by the SPCA.

[68] In conversation, Mr. Bodnar said that he was feeding them eight cups of dog food per day, per dog, that he fed them some dog kibble as well as a mixture of steaks, roasts, rice and potatoes and that he made that concoction. They had last been fed and last been provided with water that morning, he said. He said they had not been to a vet for approximately a year-and-a-half, since May of 2006 and that the kennels had last been cleaned three or four days earlier on the Saturday. He had lost

touch with the people who were the owners of the Rottweiler, and acknowledged that he had not been to the vet more recently because of financial issues. He said the kennels were cleaned twice a week and that he and his daughter both did it. They were checked for water twice a day and fed twice a day.

[69] A discussion was held about whether he was prepared to surrender the dogs or not. He was not. He was advised of what he would need to do to get them back. He was asked to show the food that he was feeding them and he pointed them to a pot of cooked rice. He also said he had a quantity of roasts and steaks in his freezer. He did show some roasts in a freezer to the police officer. They were however all frozen and there was no suggestion that they were in the state of being cooked or suitable for food.

[70] The weights of the animals were taken when they arrived at the SPCA. I will get back to those in a minute.

[71] While at the SPCA, Blackjack in particular appeared to be circling repetitively; Blackhawk less so but also circling. This was described as being stress from being in a kennel environment without extended and adequate stimulation. Videos were taken and so this behaviour was shown in court.

[72] The dogs were ultimately taken to a groomer because it was determined that all of them, to one degree or another, had significant matting. Ultimately, with respect to three of the

dogs, the matting was so severe that the groomer believed she had no alternative but to shave them, obviously not a desirable outcome for dogs such as Malamutes, but the groomer who testified did not believe she had any other alternative.

[73] The hair, some of which had been preserved, and which was entered as an exhibit in court evidenced the matting which was severe as well as the staining which was the result of not having a clean environment and basically of sleeping and otherwise lying down in their own excrement and urine. This had left the coats of these dogs which should have been white or cream-coloured quite markedly yellow in a lot of instances.

[74] The dogs were weighed again on September 20th and the change in weight was noted at that time. They had been put on primarily puppy food to provide extra protein and nutrition to assist them in regaining their weight and on average they gained about 23 percent of their body weight in just ten days. They had not been de-wormed or vaccinated in that time. The SPCA did not wish to do anything else that would affect them with respect to weight and to monitor them to see how they were. Later on, they were taken to the vet and received full veterinary treatment.

[75] Several witnesses testified, including other SPCA officers and the police officer who attended. The dog groomer testified that with the matting that these dogs were exhibiting it was matting that could then be very injurious to the dogs. They get

damp or moist and they cannot get dry and then they get hot spots in their skin. Injury results from scratching there and typically will result in open sores. In addition, the felted part or the matted part can end up pulling on the skin and causing other problems for the skin of the dogs. It can worsen and become extremely uncomfortable for them. She described the Malamutes as being quite fearful.

[76] It was her opinion that they had not been groomed before although I am satisfied that these dogs were in the past groomed but that things had gone significantly downhill in the previous many months.

[77] Ultimately as I said, three were shaved, a fourth was brushed out, a fifth got brushed a bit but would not get into a bath and was very fearful and was not responsive to cooperating with the groomer.

[78] Seahawk was described as having been in the worst condition. Charger and Blackhawk though were also in poor condition. Those three all had dry and flaky skin with hot spots beginning to form for Seahawk as well as injury near the base of his tail that was more severe than the other spots.

[79] In observing their bodies, their bones were sticking out, their spines were quite obvious, and their hip bones stuck out at abnormal angles. The males had not been groomed and they had

to all be clipped. The dogs were described as not being aggressive as much as simply being scared.

[80] An expert testified in the area of dog behaviour particularly with respect to the circling behaviour that was videotaped at the SPCA. He agreed that dogs do twirl sometimes in play and that they can be trained to twirl or spin but that a dog in his opinion behaving with repetitive spinning or twirling particularly such as Blackjack was exhibiting, that that was very much a stress response from long periods in confinement, a barren environment, lack of social and environmental enrichment with items such as bones and toys and kennel mates.

[81] The veterinarian who had examined the dogs at the scene testified and described his observations as I have described them. He was told of the diet of eight cups of cooked rice per dog per day and in his opinion that was not an appropriate diet. It lacked iron, fat and essential fatty acids and iron as well as being low in protein and amino acids.

[82] He actually noted two of the dogs as being "ones" and the other three Malamutes as "twos". He testified that they could live for a long time at level two; they would not be healthy, but they would be alive, however the dogs that were ones would degrade relatively rapidly and likely die as a result of the malnutrition.

[83] He also noted that all of the animals were intact, that is, they had not been spayed or neutered. However, none of the females in his opinion was healthy enough to breed. In any event, the close familial relationship was such that he would not recommend breeding although he was aware of certain breeding techniques used for show dogs that include close familial relationships.

[84] He reviewed the blood work that was done for Blackjack and discovered there was nothing in the blood work that suggested any reason for why the dog should be at such a low weight. He ultimately concluded that the problem with respect to weight was either increased activity or insufficient dietary intake.

[85] Mr. Bodnar elected not to testify as was his right. He called his daughter to testify, which she did today. Jessica was 14 during most of the time of the SPCA investigation. She lived on the farm with her father, her parents having split up a few years earlier and her mother having moved away. Certainly in her own mind she considered herself to have been part owner of some of these dogs and she is a young woman very involved in the business of show dogs. Her mother was very active in showing dogs and she was initiated into the business at the age of about two. Since then she has had a lot of on-the-job training in terms of handling dogs as well as some formal training courses in terms of dog handling. She took courses she testified from the age of about three to nine or ten. She

spends a significant amount of her time each year from what I understand attending at shows and showing dogs. It is something to which she has a very strong attachment.

[86] It is clear from Jessica's evidence that she loved these dogs and that she was devastated when they were seized. The problem is that she was the person that was being left in charge of these dogs and that was completely inappropriate. She was young; she was entitled to have a life that a child or a young teenager has; she was at school; she was engaged in soccer, horseback riding, other activities. As well, she was away from the home for periods of time for visits with her mother. In addition, she travelled to dog shows and during this summer period she testified she thinks she was away for extended weekends on at least five occasions.

[87] The dogs were not well cared for. She had a really difficult day today testifying about it because she is dealing with a lot of mixed loyalties, in my view. She lost her dogs and for her that was very, very hard. But she lost her dogs because her father did not accept the responsibility he had for these dogs.

[88] It is indicative of the degree of failure on the part of Mr. Bodnar to take responsibility for these dogs when he chose to have his daughter be the witness to describe what was happening with those dogs. He was not prepared to put himself on the witness stand and be cross-examined. Instead, he left

his teenaged daughter to carry the can for him. I frankly think that is appalling.

[89] It more clearly than anything else you could have done, Mr. Bodnar, suggests to me how much you were careless and reckless and neglectful of these dogs because you exhibited that same lack of care and that same neglect for your daughter. At the age of 14 while you were away she was left on her own, maybe with adequate food for the dogs, maybe with adequate food for her, maybe not. You did not step up and take care of these dogs even though they were there.

[90] Whether it was because they had primarily been your ex-wife's, sir, I do not know. Whether it was because of the nature of the personal problems your daughter spoke of at the end of her evidence, I do not know. But you were the one who had the responsibility to be sure these dogs were well cared for and if you could not care for them to make sure they were where they could be well cared for. They may have been champion dogs but they were not being treated like that. They were treated incredibly badly. They were not being fed -- nothing close to a proper diet. They were not being watered -- not slightly appropriately. The shelter, the problems with that, and the overall care was shocking. The care of the shelter, the cleanliness, the structure itself, was appalling. No animal should be required to live like that. But it was not connecting for you at all that this was your responsibility. All you did

was blame the SPCA when what they in fact were trying to do was make sure these dogs -- that deserved a decent life -- got it. To expect that a 14-year-old could maintain the care of six high needs dogs is absurd.

[91] These were dogs with their heavy coats, their double coats, that needed extra care; they are high energy dogs that needed extra exercise; they are dogs of significant size that needed lots of food, and lots of water. To think that that could all be done by one person when you knew that the care that they had received before, with a little help I suspect from your daughter, was by your wife who did it as a full-time job, not as a teenager with a life to have.

[92] I think your daughter is a remarkable young woman and sir I hope you pass that word on to your daughter. I do not think it would have been fair to require her to stay here any longer. She has had a horrible day. But I have nothing but a great deal of respect and admiration for her because she was caught. She was living with you. You were not stepping up. You were letting it all slide. You would not do what you were supposed to do. Somehow this all became her job and that was not right. She knew the dogs were not being properly cared for and she could not do it. It was too much for one person, especially a girl of that age and with the rest of the life she properly had. To just let that carry on is shocking.

[93] As a result, I have absolutely no doubt whatsoever that you were the owner or the person having custody or control of these dogs or the person responsible for these dogs and that according to the **Criminal Code** charge that you wilfully neglected and failed to provide suitable and adequate food, water, shelter and care for them. I am further satisfied that being the person responsible for them that these dogs indeed were in distress. It must have been a shock to them going from being cared for and looked after show dogs to the life they ended up with for their last many months they were with you. I am satisfied that all of that indeed did cause these dogs to be in distress and that they continued to be in distress notwithstanding all the warnings and cautions that had come from the SPCA. That being the case, sir, I find you guilty with respect to both counts.

(REASONS FOR JUDGMENT CONCLUDED)

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[1] **THE COURT:** I suppose the good news out of this is at least with respect to the Malamutes they will survive this; two of them were very close to not surviving it, and things were going downhill for the others.

[2] Nothing was going to get you to focus your attention on these dogs, notwithstanding all the efforts that the SPCA was making. They just then became intrusive to you and they were not an agency that you chose to cooperate with, although ironically had you done so it would not have come to this.

[3] **THE ACCUSED:** Yeah, I realize that now.

[4] **THE COURT:** In terms of count 1, I am going to deal with this by way of three-month sentence to be served by way of a conditional sentence order.

[5] What that is, sir, it is as I said a jail sentence served in the community. There are going to be some fairly tight rules. You cannot break the rules. If you do, you go to jail. The whole sentence then, everything that is left, you then have to serve in jail ordinarily. If you come back to court the decision is made and most people end up spending it in jail. So it is very serious.

[6] The terms of the conditional sentence order are that you keep the peace and be of good behaviour; you appear before the court when required to do so by the court; you are to report to a supervisor no later than 4:00 p.m. tomorrow at 2610 Mary Hill

Road in Port Coquitlam and report thereafter when required by your supervisor and in the manner directed by the supervisor; you are to remain within the Province of British Columbia unless written permission to leave is obtained from the supervisor in advance; and you are to notify the supervisor in advance of any change of name and address and promptly notify the supervisor of any change in employment or occupation. You must provide your residential address to your sentence supervisor and you are not to change that without first having the permission of your supervisor.

[7] You must not have in your possession any weapons as defined by the **Criminal Code** including any knives except for the immediate preparation of and consumption of food or for work purposes while at work only. So you cannot carry it back and forth; it has got to stay on the job.

[8] You must abstain absolutely from the consumption and possession of alcohol or any non-prescription drugs or substances referred to in the **Controlled Drugs and Substances Act** for which you do not have a lawful personal prescription.

[9] For the first two months of this order, you must obey a curfew between the hours of 10:00 p.m. and 6:00 a.m., seven days a week. During those hours you must be continually in your place of residence, so you have to be at home for the next two months, every night. You cannot go anywhere. So you are to be continually in your place of residence unless you have the

written permission of your sentence supervisor obtained in advance and in writing for specific purposes to be out of your residence after curfew. That permission must be carried on you and presented to any police officer who may request it if you are out after your curfew. You must also present yourself at the door of your residence for the purpose of confirming your compliance with this condition to any police officer or sentence supervisor who may attend.

[10] With respect to count 2, the fine is \$50.00. That is fairly nominal because of the sentence I have imposed on the other and I will give you until September 30th to pay that fine. It is too complicated to get into a recognizance frankly.

[11] Pursuant to s. 24(3) of the **Prevention of Cruelty to Animals Act** I am prohibiting you from owning or having custody or control of any animal. So, you do not own it, you do not have custody of one, you do not look after somebody else's, or you do not control one, you do not again look after somebody else's. That is for a period of 50 years which starts today.

[SUBMISSIONS AND DISCUSSION]

[12] With respect to these matters, I am going to waive the victim fine surcharge.

(ORAL REASONS FOR SENTENCE CONCLUDED)