

79812-1  
Kamloops Registry

**In the Provincial Court of British Columbia**  
(BEFORE THE HONOURABLE JUDGE BLAIR)

Kamloops, B.C.  
October 18, 2006

REGINA

v.

GAIL BOYETCHKO

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PROCEEDINGS AT SENTENCING

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ORIGINAL

Crown Counsel:

A. Janse

Defence Counsel:

C. Thompson

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**Proceedings**

1  
2 Kamloops, B.C.  
3 October 18, 2006  
4 MS. JANSE: Your Honour, if we can call the Gail  
5 Boyetchko file, 79812, please.  
6 THE CLERK: Gail Boyetchko.  
7 MS. JANSE: It's going to be for disposition.  
8 MR. THOMPSON: Your Honour, my name is Thompson,  
9 initials C. I appear with Ms. Boyetchko. Which  
10 count?  
11 MS. JANSE: Two or three.  
12 MR. THOMPSON: Okay. Just let me have a look.  
13 I would say Count 2, Your Honour, please.  
14 THE COURT: You wish that read to Ms. Boyetchko?  
15 MR. THOMPSON: Just a moment, Your Honour.  
16 THE COURT: They're all --  
17 MS. JANSE: Oh, sorry, I said the wrong one.  
18 MR. THOMPSON: Yeah.  
19 MS. JANSE: That's my mistake, Your Honour. One  
20 moment. Count 1.  
21 MR. THOMPSON: Count 1, please, Your Honour.  
22 THE COURT: You wish that read to Ms. Boyetchko?  
23 MR. THOMPSON: No, I'll waive formal reading, Your  
24 Honour, thank you.  
25 THE COURT: This is an offence under the **Provincial**  
26 **Cruelty to Animals Act**. Do you understand that?  
27 THE ACCUSED: Yes.  
28 THE COURT: That you've just pled guilty to?  
29 THE ACCUSED: Yes.  
30 THE COURT: Have a seat, listen to the circumstances.  
31 MS. JANSE: I think my friend and I have spent too much  
32 time talking about this file.  
33 MR. THOMPSON: Yes, we have.  
34 MS. JANSE: We're getting confused.  
35 MR. THOMPSON: And I've passed a booklet up to Your  
36 Honour. It's --  
37 MS. JANSE: And I have -- my friend provided that to me  
38 quite some time ago. I have had an opportunity to  
39 read it.

40  
41 **SUBMISSIONS BY CROWN:**  
42

43 MS. JANSE: Your Honour, the circumstances are that on  
44 February 24th, 2006, Debbie Marsall of the  
45 SPCA -- she was a special provincial constable at  
46 the time -- was contacted by Michelle Mcquire  
47 [phonetic] from Kamloops Veterinary Clinic

**Submissions by Crown**

1 regarding a cat in distress at 932 Pine Springs  
2 Road in Kamloops, B.C.

3 Ms. Marsall attended the premises and was  
4 given consent to enter by the accused's daughter,  
5 Stephanie [phonetic]. Ms. Marsall could hear a  
6 cat yelling loudly from upstairs. She was led  
7 upstairs and observed a cat lying on its side on a  
8 folded blanket on the kitchen floor. She was told  
9 that the cat had been given a human anti-anxiety  
10 drug the previous evening. She could see the cat  
11 was breathing very slowly and it would lift its  
12 head and yowl. It's eyes were open and appeared  
13 glassy. She was told this cat had been in this  
14 state since 11 p.m. on February 23rd. The owner  
15 of the cat could not be contacted and Ms. Marsall  
16 took the cat into custody for critical distress  
17 under s. 14 of the **PCA**. The cat was taken to  
18 Central Animal Hospital for examination. Upon  
19 examination, it was determined to be in critical  
20 distress and euthanized.

21 Just -- and then when Ms. Marsall proceeded  
22 with her investigation, she took a statement from  
23 Ms. Mcquire at the veterinary clinic, stated that  
24 she had been contacted by Stephanie Boyetchko  
25 about a cat that had been given human sleeping  
26 pills, was not doing very well and possibly had a  
27 broken leg. She advised that the cat was having  
28 difficulty breathing, that she was only 16 years  
29 old and had no means to get the animal to a  
30 registered veterinarian.

31 She told -- sorry, the lady from the vet  
32 clinic told Stephanie that she could bring the cat  
33 in and she wouldn't have to pay and they could  
34 euthanize it. Initially, Stephanie had been  
35 asking what she could give the cat to euthanize it  
36 at home. She told Michelle Mcquire that her mum  
37 had given it a bunch of sleeping pills. The cat  
38 went to sleep for a while, woke back up and wasn't  
39 doing very well. Ms. Mcquire could hear the cat  
40 over the phone yowling, took down her name and  
41 phone number, said that she would call her back  
42 after speaking to the vet.

43 Dr. McKelvey told Ms. Mcquire that Stephanie  
44 should get the cat there as soon as possible and  
45 they wouldn't charge her for euthanasia and that  
46 they could bill her parents when they returned.  
47 She called Stephanie back, told her this, but then

**Submissions by Crown**

1 she changed her story and said that her parents  
2 were in town, but that they couldn't afford to  
3 bring their cat to the vet. She was then told  
4 that if they couldn't afford the care for the cat,  
5 they needed to surrender it to the SPCA. She  
6 agreed that the cat was suffering, but didn't want  
7 to give it up to the SPCA and after getting off  
8 the phone with her, Ms. Mcquire considered all the  
9 facts she had and contacted the SPCA and provided  
10 a statement.

11 With regards to the state of the cat at the  
12 time it was seized, Your Honour, there's medical  
13 records from the veterinarian who had to put the  
14 cat down. When the cat was brought in, he was in  
15 a semi-comatose state, stared straight ahead  
16 taking no notice of his surroundings. His  
17 physical exam revealed a body condition score of  
18 1.5 to 2. That's out of nine, Your Honour.  
19 That's considered very thin. The only one worse  
20 than that is one, obviously. There was a large  
21 amount of wet, sandy-looking diarrhoea caked  
22 around the rectal area, marked dehydration was  
23 apparent, the eyes were sunken, the temperature  
24 was below normal and the left cranial cruciate  
25 ligament of the stifle was torn. It was unlikely  
26 that the cat could bear weight on the limb given  
27 the injury.

28 A euthanasia recommendation was made and  
29 authorization was given by the SPCA officer in  
30 attendance. Post-mortem revealed constipation,  
31 dehydration and swollen failing kidneys. It was  
32 the opinion of Dr. Lewis that the renal disease  
33 exhibited was not sufficiently severe to induce  
34 the mental state observed and that he believed it  
35 was more likely due to an outside source.

36 Eventually a statement was taken from the  
37 accused, Gail Boyetchko, by Ms. Marsall. In her  
38 statement she told Ms. Marsall that the cat, whose  
39 name was Bailey, had been moving slower and had  
40 increasing difficulty climbing the stairs for one  
41 or two months prior to February 23rd and would  
42 stop on the lower stairs and have to be carried up  
43 after going down to use the litter box. The  
44 litter box was never moved upstairs for easier use  
45 by Bailey.

46 Bailey had not been seen by a veterinarian  
47 after he started having difficulty climbing the

**Submissions by Crown**

1 stairs. He had stopped grooming himself one month  
2 prior to the date in question. His legs would  
3 collapse under his own weight at times. He had  
4 started vomiting one week prior to February 23rd,  
5 had not been seen by a veterinarian after he  
6 started vomiting.

7 Ms. Boyetchko had contacted the regular  
8 veterinarian on Monday, February 20th, to say it  
9 was time to put Bailey down and to get the cost.  
10 She wanted to wait until her payday on Thursday,  
11 February 23rd, or Friday, 24th, to have Bailey  
12 euthanized. She administered one milligram of  
13 lorazepam, also known as Ativan, a human anti-  
14 anxiety medication orally to Bailey at  
15 approximately 11 p.m., February 23rd. She stated  
16 that she was a nurse and did not contact a  
17 veterinarian prior to administrating [sic] the  
18 drug to Bailey.

19 Those are the circumstances, Your Honour. I  
20 will say I have had a chance to review my friend's  
21 materials. I certainly don't think that Ms.  
22 Boyetchko is, you know, some sort of animal  
23 abuser. I think the problem is -- what we have  
24 here is a case of not doing the responsible thing  
25 with your pet when it gets ill, allowing it to  
26 remain in distress for quite some time. She told  
27 Ms. Marsall, and it may not be her story now, but  
28 she told Ms. Marsall that she wanted to wait until  
29 she had money. In Crown's submission, that's  
30 unacceptable. That's what the SPCA is for. You  
31 can take your cat there at any time and have it  
32 euthanized for free. Providing human medication  
33 to an animal without consulting a veterinarian is  
34 also irresponsible, and as a nurse she should know  
35 better, and that also caused distress to the  
36 animal.

37 That said, Your Honour, she has no record.  
38 The Crown's recommending a -- well, basically,  
39 what we're recommending, we would like restitution  
40 to the SPCA. That's permitted under s. 20(1) of  
41 the **PCA**. The total cost to the SPCA in treating  
42 Bailey was \$270.04. I have a copy of the receipt  
43 which I will pass up.

44 THE CLERK: Thank you. [Inaudible/not near microphone].

45 THE COURT: Please.

46 MS. JANSE: So we're seeking an order for restitution  
47 to the SPCA of that amount and we're also seeking

**Submissions by Crown**

1 a fine. My friend and I have discussed it. I  
2 think perhaps a total in the range of \$500 would  
3 be appropriate. So another \$230 fine. Subject to  
4 any questions Your Honour might have, those are  
5 the Crown's submissions.  
6

**SUBMISSIONS BY DEFENCE:**

7  
8  
9 MR. THOMPSON: Your Honour, the difficulty with this  
10 matter is the following. I know Your Honour have  
11 [sic] seen this before. We have somebody who  
12 desperately loves the cat. The cat's 19 years of  
13 age -- old. The cat is dying. Ms. Boyetchko,  
14 despite what she said about -- to the SPCA,  
15 I -- it is my submission that what has happened  
16 here is that she just couldn't face putting her  
17 cat down. She just couldn't face it and it was  
18 very difficult for her. She's been devastated  
19 about it.

20 She has herself some difficulties. She's off  
21 on leave from her job and she does have some  
22 difficulties herself. She has been completely  
23 mortified by all of this and completely, severely  
24 affected by this. I've had -- spoken to several  
25 of her friends who have brought her to my office  
26 and I've spoken to her at length about this.

27 I supplied to you the veterinary clinic  
28 documents, and Your Honour doesn't have to go  
29 through them. They're just a record as a  
30 person -- I'm a non-pet owner, but as a person  
31 who, for instance, takes care of the car and has  
32 records, this is a record of all the things she's  
33 done with her pet, and she has really taken care  
34 of her pet. If you look on page 10, this will  
35 give you some indication -- page -- I'm sorry,  
36 number nine. This is the -- from her daughter and  
37 it gives you some indication about how -- what she  
38 felt like -- what she felt about Bailey and then  
39 she's still affected by it, and her daughter's  
40 trying to help console her about it. She is  
41 deeply affected. I've also passed up to you her  
42 history, I won't go into detail, some letters from  
43 her friends and other people.

44 What happened was that the cat was sick. She  
45 had the cat in a very nice fur blanket rug  
46 in -- the cat was in distress. She did give the  
47 cat that hoping that that would help the cat get

**Submissions by Defence**

1 through it. She went to Vancouver never thinking,  
2 of course, that the cat would be in such distress  
3 as it was. Whether or not the doctor is accurate  
4 about the situation of the cat, I can't make any  
5 comment about, but I can just say this to you;  
6 there was no intention and this count does not  
7 call for intention, but there was never any  
8 intention to do the cat harm. It happened as a  
9 by-product of what she did.

10 I can tell Your Honour that having a criminal  
11 record would severely affect her ability to pay,  
12 but it's a Provincial court matter and we've  
13 discussed that so that takes that out of play, and  
14 so she's relieved about that.

15 This lady, Your Honour, and it's -- it's an  
16 odd situation because just looking on the face of  
17 it, you wonder, "Ah, this is a cat file or a dog  
18 file, and, you know, what is it doing in court?"  
19 But all these -- all these files have their place  
20 here in some context and this one has, too. But  
21 Ms. Boyetchko is an honourable person who has  
22 suffered quite substantially for the mistake that  
23 she made.

24 THE COURT: How did the cat break its leg?

25 MR. THOMPSON: How did the cat break its leg?

26 THE ACCUSED: As far as I --

27 MR. THOMPSON: Stand up.

28 THE ACCUSED: Sorry. It was a ligament, apparently,  
29 what the autopsy said. My daughter misunderstood  
30 what I had said. He had turned his paw in a funny  
31 manner and --

32 THE COURT: Because of the arthritis and everything?

33 MS. JANSE: It was a torn ligament, Your Honour.

34 THE COURT: It was a torn ligament?

35 THE ACCUSED: Yeah, it was --

36 THE COURT: It was not a broken leg.

37 THE ACCUSED: -- in his back left knee and my comment  
38 to her was because his paw had turned funny. In  
39 passing I said something about a broken leg as I  
40 was feeling his front paws for any breakage. I  
41 never . . .

42 THE COURT: Anything else, Mr. Thompson?

43 MR. THOMPSON: No, Your Honour. You've [indiscernible]  
44 the materials.

45 THE COURT: Ms. Boyetchko, come up to the counsel  
46 table, please. Ms. Boyetchko, is there anything  
47 you'd like to say before I pass sentence upon you?



**Submissions by Defence**

1 THE ACCUSED: I'd just like to say that Bailey was part  
2 of our family --

3 THE COURT: Mm-hmm.

4 THE ACCUSED: -- and in no way when I gave him the  
5 medication did I think that that would happen. He  
6 was like one of the kids. It doesn't mention  
7 anywhere in the SPCA's notes at all -- I know that  
8 in court you deal with black and white, but  
9 nowhere does she mention that both my husband and  
10 I were in tears before the end of the interview.  
11 We were both totally in tears. My husband is a  
12 truck driver and he's not common to tears, but  
13 both of us were in tears. This has been terrible  
14 for us.

15

16 [REASONS AT SENTENCE]

17

18 MS. JANSE: Your Honour, the Crown enters a stay of  
19 proceedings on Counts 2 and 3, and I thank my  
20 friend for acknowledging the importance of these  
21 cases.

22 MR. THOMPSON: Okay.

23 THE COURT: They are important. They're truly  
24 important. You are free to go for now.

25 THE ACCUSED: Thank you.

26 MR. THOMPSON: Thank you, Your Honour.

27 THE CLERK: What section was the --

28 THE COURT: 20(1) of the Prevention of Cruelty  
29 Act -- Prevention of -- the **Prevention of Cruelty**  
30 **to Animals Act**. There it is right there. There's  
31 the number right there, too.

32

33 (PROCEEDINGS CONCLUDED)

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**Submissions by Defence**

1  
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**File No: 79812-1  
Registry: Kamloops**

**In the Provincial Court of British Columbia**

**REGINA**

**v.**

**GAIL BOYETCHKO**

**REASONS FOR SENTENCE  
OF  
THE HONOURABLE JUDGE W.A. BLAIR**

**COPY**

<b>Crown Counsel:</b>	<b>A. Janse</b>
<b>Defence Counsel:</b>	<b>C. Thompson</b>
<b>Place of Hearing:</b>	<b>Kamloops, B.C.</b>
<b>Date of Judgment:</b>	<b>October 18, 2006</b>

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[1] THE COURT: Well, you are wrong about one thing, Ms. Boyetchko. We do not just deal with black and white in the court. We empathize with people who have made mistakes. It is almost like Bailey was killed with kindness and out of love. He was to die, it was destined to happen and you did not want that to happen. That is an understandable state to be in, but you have to be more realistic. We all have to on occasion. We do not want to look forward to living without an animal. Animals become like part of the family, but they suffer and Bailey truly did suffer.

[2] I know that you did not give Bailey human medication with the thought that it would not assist him, you thought it would. Clearly, it made or exasperated [sic] or exaggerated or -- the difficulties that he was having. They were just worse.

[3] What is proposed here makes imminent good sense to me. But act responsibly with your next pet. Realize that the time has come because it will come for all of us, especially our pets earlier than us, generally, unless you got a bird that might last for a hundred years or a turtle that might last for a hundred years.

[4] I am satisfied that there shall be a \$200 fine with the victim fine surcharge that comes to \$230. Pursuant to s.

---

20(1) of the Provincial ***Prevention of Cruelty to Animals Act***, make an order for compensation and restitution to the Society for the Prevention of Cruelty to Animals, Kamloops office, in the amount of \$270.04.

[5] How much time do you need to make that restitution order?

[6] MR. THOMPSON: Six months [indiscernible], Your Honour, please.

[7] THE COURT: By April 15, 2007, and with regard to the fine, how much time do you need to pay that?

[8] MR. THOMPSON: Six months the whole thing, Your Honour.

[9] THE COURT: Same time?

[10] MR. THOMPSON: Yes.

[11] THE COURT: April 15, 2007 to pay that.

(REASONS CONCLUDED)