

State v. Segó
Court of Common Pleas of Delaware, Kent County
2006 WL 3734664
UNPUBLISHED OPINION
Dec. 18, 2006

Summary of Opinion

Fifteen of defendant's horses were seized by the SPCA. Defendant entered a plea of guilty to one count of animal cruelty and was placed on probation. As a condition of probation she was to pay restitution in the amount of \$13,000.00 to the SPCA within three months plus court costs and a fine of \$500.00. 12 of the horses would be returned to the defendant and she agreed to sell those. The SPCA retains ownership of the others and defendant seeks their return. One mare was malnourished, a mare and foal were treated for rain rot and the foal may require surgery. This court concludes that there is no preexisting lean and that the SPCA has ownership and may place the remaining horses for adoption saying that the court "is not persuaded that defendant can give these sensitive animals proper veterinary care."

Text of Opinion

In this criminal action the defendant, Edwina Segó, seeks the return of three horses seized by the Society for the Prevention of Cruelty to Animals (SPCA) on July 27, 2006. Because of the defendant's failure to pay the costs of holding and caring for the three impounded animals within 30 days after receipt of a detailed billing from the SPCA, ownership of the animals reverted to the SPCA under 3 *Del.C. Sec. 7904(c)*.

The relevant facts are as follows: On July 27, 2006, the SPCA seized fifteen horses in the custody of Edwina C. Segó and Glenn Segó. At the same time, complaints alleging fifteen counts of animal cruelty were filed against Edwina Segó and fifteen counts of animal cruelty were filed against Glenn Segó.

On the December 8, 2006, Edwina Segó entered a plea of guilty to one count of animal cruelty relating to the cruel neglect of a 5 1/2 month old foal. With the consent of the State, the defendant was placed on Level I probation before judgment for a period of six months. It was a condition of probation that she pay restitution in the amount of \$15,000.00 to the SPCA within three months, the court costs, a fine of \$500.00, and the victims compensation fund assessment. Under the plea agreement, 12 of the horses would be returned to Mrs. Segó and she agreed to sell those horses. The SPCA claims ownership of the remaining horses and wishes to place them for adoption, but the defendant seeks the return of those horses. A hearing was held on this issue on December 14, 2006.

The horses retained by the SPCA were a bay mare named "Balmy Prospect", a palomino mare named "LD Fancy", and a 2 1/2 month old foal named "May Blossom".

The evidence produced at the hearing established that Balmy Prospect was emaciated when she was seized by the SPCA. The mare has received extensive nutrition while in the custody of the SPCA and has now been placed out for adoption. The palomino mare, LD Fancy, was also malnourished and weighed between 500 and 600 pounds when she was seized by the SPCA. She has been treated for rain rot and now weighs between 900 and 1000 pounds. She may be sent out of state for surgery on her hip. May Blossom, the foal of LD Fancy, was also treated for rain rot.

The SPCA submitted a detailed billing to Mrs. Segó listing the accrued monthly costs of boarding, veterinary, and other costs incurred. Mrs. Segó has not paid these costs within thirty days of receipt of the detailed monthly billing.

The defendant contends that Angela Neeley, the defendant's daughter, has a lien on the horses and is entitled to return of the animals by virtue of this lien. I disagree. The animals were seized on July 27, 2006, prior to the creation of any lien to the daughter. I hold that this lien, if any exists, does not defeat the statutory rights of the SPCA under 3 *Del. C. Sec. 7904(c)*.

3 *Del. C. Sec. 7904(c)* provides in pertinent part as follows:

Upon a determination that probable cause exists to believe that the animal cruelty or animal fighting laws have been violated by the owner or custodian of any impounded animal, the State and/or the appropriate Society for the Prevention of Cruelty to Animals shall have the right to recover the costs of holding and caring for any animal impounded under this section from the owner or custodian of the animal. Each month, the State or appropriate Society for the Prevention of Cruelty to Animals shall submit a detailed billing to the owner or custodian of the animal, listing the accrued monthly costs of boarding, veterinary and other costs incurred. Notwithstanding any provision of this section or any other law to the contrary, failure of the animal's owner or custodian to pay these costs within 30 days of the receipt of a detailed monthly billing will result in ownership of the animal reverting to the State or to the appropriate Society for the Prevention of Cruelty to Animals. The provisions of this paragraph shall be applicable notwithstanding the final disposition of the criminal charges.

Under the statute, if probable cause exists to believe that the animal cruelty laws have been violated by the owner the SPCA may seize the animals. It is not disputed that probable cause existed for the seizure of the animals. Secondly, if the SPCA has submitted a detailed billing to the owner listing the accrued monthly costs of boarding and veterinary care incurred, and the owner fails to pay these costs within thirty days of the receipt of the detailed monthly billing, ownership of the animals reverts to the State.

In the case before me, the monthly billing was submitted to Mrs. Segó and she failed to pay the costs within thirty days. Accordingly, the three animals in question reverted to the SPCA.

3 *Del. C. Sec. 7904(c)* was added to the Delaware Code on March 27, 2002 and the clear purpose of this section is to vest title in the SPCA if it has complied with the provisions of the section. The provisions of that statute apply notwithstanding the final disposition of the criminal charges.

The defendant cites 11 *Del.C.* Sec. 2311 concerning the disposition of the property validly seized, but that section has no applicability to the case at bar. The disposition of animals seized based on probable cause that animal cruelty exists is entirely controlled by 3 *Del.C.* Sec. 7903. I conclude that the SPCA now has ownership of the animals and may place them for adoption. Additionally, I am not persuaded that the defendant can give proper veterinary care for these sensitive animals. The defendant's motion for return of the horses is denied.

IT IS SO ORDERED.