

Case Name:
R. v. Girard

Between
R., and
Girard

[2011] O.J. No. 6531

Ontario Court of Justice

L. Logue J.P.

Oral judgment: October 3, 2011.

(65 paras.)

Counsel:

No counsel mentioned.

REASONS FOR JUDGMENT

1 L. LOGUE J.P. (orally):-- Madeleine Girard is charged on the 21st day of April 2011, in the City of Ottawa, with failing to comply with the standards of care, contrary to the Ontario Society for the Protection of Cruelty to Animals, Section 11.1(1). I am satisfied beyond a reasonable doubt that all the essential elements have been proven. I am satisfied the defendant was properly served and the certificates are regular and complete on their faces. There are two counts.

2 A dog in our society is considered to be domesticated, a pet, loyal, loving, comforting, a pet who can provide, for the most part, unconditional love to their owners. This dog spent its last days, through no fault of its own, suffering incredible pain, trying to survive alone, in living conditions certainly nowhere near the living conditions this dog would deserve; trying to survive again alone, left on its own, no fresh water, not even an ability to access any source of water over an extended period of time, that time frame not necessarily clear, but over an extended period of time, suffice to say.

3 A dog is not meant to be left alone. In fact, a responsible dog owner would have difficulty leaving a dog alone for much more than the average eight hours without making alternative arrangements for its care.

4 In this case, this helpless puppy, estimated by Dr. Binnington - sorry, did you want to ...

5 MS. GOEBEL: If I could just - sorry for the interruption.

6 ... Court deals with another matter on the docket

7 THE COURT: So, in this case, this helpless puppy, estimated by Dr. Binnington to be less than one year old, was left vulnerable and defenceless on its own, alone for long days, in what must have been very lonely and painful nights. No one heard its cries nor its whimpers as it died a very long, slow and painful death. Its owner, Ms. Girard, although located nearby, obviously totally neglected to provide for its care; Ms. Girard being the tenant of this rent-to-income residence where the puppy found. Ms. Girard reportedly knew how to access the City of Ottawa's social services in order to benefit from the rent-to-income service or residence afforded those in need. However, for some reasons - and only she will ever be able to explain them - she failed, and totally failed to seek the services of the Ottawa Humane Society to get assistance for this poor defenceless puppy.

8 The photographic evidence presented today reveals the repulsive, vile and hostile environment that Ms. Girard left this puppy in. It is hard for anyone to imagine the significant pain that this young puppy would have endured, albeit, as Dr. Binnington so eloquently put it, the dog can feel pain. We know that, when dogs whimper and yelp when they are hurt. A totally senseless loss of life of a young pup that could have been adopted by a more caring owner and provided hours and years of unconditional love to another family, but through absolutely no fault of its own, this pup found itself at the mercy of a person whose actions can be best described as monstrous. Dr. Binnington's report, albeit painful to hear, certainly revealed the painful process of starvation this younger dog suffered through over a period of time.

9 I also want to take a moment to thank the OSPCA officers for their efforts in this case. In your daily execution of your duties, that is not easy to have to go through, and I do not think that it is a scene that anyone can just go home at the end of the day and forget about. You are to be commended for your duties not only on this case but for all of the cases that you work on that are similar in nature, and hopefully there are not too many of them. They do not all have happy endings, but today, in this court, we will at least bring justice for this pup that was found. I commend both of you for your work in this matter.

10 Based on the totality of the evidence, and hearing no evidence to the contrary, I find Madeleine Girard guilty of the offences as charged. Convictions will be registered, and I would like your submissions as to fine.

11 MR. COLLINS: Thank you, Your Worship.

12 THE COURT: As to penalty, sorry.

SUBMISSIONS BY MR. COLLINS:

13 As per Section 18(3) of the Ontario Society for Prevention of Cruelty Act, anyone found guilty of an offence under Section 18(1)(b) or (c), as Ms. Girard has been charged, the maximum penalties prescribed for these offences are a fine of \$60,000 or imprisonment for a term of not more than two years or both. It's the Crown's position that, due to the horrible and shocking nature of this offence, and because of the accused's obvious financial hardship being dependant on social housing, a monetary fine wouldn't be appropriate in this case.

14 The Crown, therefore, will be seeking a period of imprisonment of a maximum, in this case, for six months.

15 Additionally, under Section 18(6) of the same Act, the Crown is entitled to and will be seeking a prohibition order prohibiting Ms. Girard from owning, having custody or care of an animal. I have the wording I would like to be read in here, if that's appropriate at this time.

16 THE COURT: Yes, please, do.

17 MR. COLLINS: Okay. The defendant is prohibited from owning, or having custody or control of, or residing in the same premises as an animal or bird for the rest of her life. Any animals found in the defendant's care must be surrendered immediately to the local Society for Prevention of Cruelty to Animals or the Humane Society.

18 THE COURT: Thank you. That will be entered. That prohibition order will be granted. And the maximum amount of imprisonment you said was up to two years?

19 MR. COLLINS: Up to two years, correct.

20 THE COURT: And you're asking for ...

21 MR. COLLINS: Six months.

22 THE COURT: ... six months. And you're basing that on what?

23 MR. COLLINS: We would like to point out that this young animal was left to die and suffered greatly and totally unnecessarily in this case. As Your Worship correctly found, in the Crown's submission, its last days were filled with pain and suffering, alone, with no food and water, surrounded by the terrible conditions in the residence. Whether directly or indirectly, we won't know, but regardless, that Ms. Girard caused this to be foisted on this animal. We feel that six months would be an appropriate time.

24 THE COURT: All right, I am going to grant the prohibition order. I agree with you that a monetary fine - I mean, based on this tenancy agreement, she was paying \$85.00 a month rent, so it is obvious that the monetary fine would not be appropriate in this case - but I will be asking for a 10-month period of incarceration. That brings it closer in line with the amount of months that this dog's age was.

25 MR. COLLINS: Thank you, Your Worship.

26 THE COURT: And so perhaps, in those ten months, she can reflect. She certainly will not have access to pets.

27 MR. COLLINS: May I continue? I do have some more points to make.

28 THE COURT: Yes, go ahead.

29 MR. COLLINS: Under Section 18(7) of that Act, the Crown seeks a restitution order payable to the Ottawa Humane Society in the sum of \$225.00 for the costs it incurred in removing the animal and having the necropsy carried out. And, lastly, the Society have asked me to request inspection rights to ensure compliance with the order granted. I have the proper wording for that, if Your Worship cares to hear it.

30 THE COURT: Yes, please go ahead.

31 MR. COLLINS: Okay, the Society asks that local SPCA agents or inspectors may be permitted to conduct random inspections of Ms. Girard's premises between the hours of 9:00 a.m. and 7:00 p.m., and when she is present, to ensure compliance of the order.

32 THE COURT: I'm going to grant that as well, and change the hours, though, from 9:00 a.m. to 11:00 p.m.

33 MR. COLLINS: Thank you, Your Worship.

34 THE COURT: At the discretion of the OSPCA. And I encourage them to visit on a regular basis to ensure that no other dog or animal is suffering at the hands of this person.

35 MR. COLLINS: Lastly, may I just ask that the Court require Ms. Girard to inform the local Society or the Humane Society of any change in address in this province, please.

36 THE COURT: Yes, and is there any jurisdictional issues with having her inform of any change of address, that she must also - can the OSPCA then be able - would there be an ability, I guess I'm looking at, if she goes back to Quebec, will there be an ability to ensure that? There wouldn't be, because she would be on an order for Ontario.

37 PERSON IN THE COURTROOM: Unfortunately - unfortunately not. She would've been - had to have been charged criminally. It's strictly the jurisdiction of Ontario.

38 THE COURT: Ontario. All right. So, yes, she is to inform of any change of address.

39 MR. COLLINS: Thank you, Your Worship.

40 THE COURT: And the restitution will be made out for \$500.00 to the OSPCA, which will cover not only the cost of the report but also the time, to some extent, of the officers.

41 MR. COLLINS: Thank you. OSPCA, is that fine?

42 PERSON IN THE COURTROOM: It would be the Ottawa Humane Society.

43 THE COURT: To the Ottawa Humane Society?

44 MR. COLLINS: Yes, please, Your Worship.

45 THE COURT: All right, so we'll make the restitution in the amount of \$500.00 to the Ottawa Humane Society.

46 MR. COLLINS: That concludes my submissions on sentence, Your Worship.

47 THE COURT: All right, so if we have got this right, then, in order, a period of incarceration for 10 months; a prohibition order not to own any animal, nor to live in a residence where any animal is; that includes all species, and that's a lifetime prohibition order; a \$500.00 restitution payable to the Ottawa Humane Society; inspection rights for the OSPCA officers between the hours of 9:00 a.m. and 11:00 p.m., and when she is present; and to inform of any change of address.

48 MR. COLLINS: One slight correction, in the prohibition, could we ask that any animals found in the defendant's care be immediately surrendered ...

49 THE COURT: Oh yes.

50 MR. COLLINS: ... to the local Society or the Ottawa Humane (sic), please, Your Worship?

51 THE COURT: Yes.

52 MR. COLLINS: Thank you.

53 THE COURT: Any animals found to be in the care of Madeleine Girard are to be apprehended and taken into the care of the Ottawa Humane Society.

54 MR. COLLINS: Thank you.

55 THE COURT: Did I miss anything? The inform of change of address, that should go with the prohibition order, like for that length of time, or ...

56 MR. COLLINS: Is that usual?

57 PERSON IN THE COURTROOM: Yes.

58 MR. COLLINS: Yes, that's fine.

59 THE COURT: Yes, okay.

60 MR. COLLINS: That's fine.

61 THE COURT: So it's a lifetime order.

62 MR. COLLINS: Thank you.

63 THE COURT: It's a very difficult case. I would like to thank Dr. Binnington for the time he took to be here today as well, and for your work on this file, to the officers, the Crown, and obviously to the officers for the work you do. Thank you, Madam Clerk. Thank you, Mr. Crown.

64 MR. COLLINS: Thank you, Your Worship. Thank you.

65 THE COURT: You presented a very thorough case. Court is adjourned.

qp/s/qlacx/qlrdp

---- End of Request ----

Download Request: Current Document: 1

Time Of Request: Friday, April 10, 2015 12:52:44