

23166-1
Quesnel Registry

In the Provincial Court of British Columbia
(BEFORE THE HONOURABLE JUDGE E. C. BLAKE)

Quesnel, B.C.
May 10, 2007

REGINA

v.

JOLYNN MARY BLAIKIE
DALE BLAIKIE

PROCEEDINGS AT SENTENCING
(Re Accused Dale Blaikie)

COPY

Crown Counsel:

V. Galbraith

Defence Counsel:

B. Chudiak

INDEX

Submissions by Crown:.....	2
Submissions by Defence:.....	3

EXHIBITS

Nil

RULINGS

Plea on Count 2	2
Stays of proceedings	2
[REASONS AT SENTENCE]	5

Proceedings

1
2 Quesnel, B.C.
3 May 10, 2007
4 MR. GALBRAITH: Crown calls 23166, Dale and Jolynn
5 Blaikie.
6 MR. CHUDIAK: Yes, Your Honour, for the record,
7 Chudiak, appearing as counsel --
8 THE COURT: Yes.
9 MR. CHUDIAK: -- [indiscernible/voice fading away] Mr.
10 and Mrs. Blaikie. Ms. [indiscernible/voice fading
11 away] is appearing as agent for Ms. Blaikie
12 [inaudible/voice fading away] process.
13 In respect of the Information, Mr. Blaikie
14 understands that he had been charged with cruelty
15 to animals, and with respect to Count 2, the
16 [inaudible/voice fading away].
17 THE COURT: All right. And this is agreeable to the
18 Crown, is it?
19 MR. GALBRAITH: It is, Your Honour, yes.
20 THE COURT: Mr. Blaikie just before I take your plea, I
21 need to ask you a couple of questions, without any
22 disrespect to you or counsel. First of all, just
23 speaking generally, do you understand that you can
24 only enter a guilty plea to any offence, and in
25 fact I can only accept a guilty plea if in fact
26 you are admitting that you committed the offence.
27 Do you understand that?
28 THE ACCUSED: Yes.
29 THE COURT: In this case the charge is that, [as read
30 in]:
31
32 ...between the 1st of September and the 29th
33 of September 2006 at Quesnel, you caused or
34 permitted an animal to be or to continue to
35 be in distress, contrary to s. 24 of the
36 **Prevention of Cruelty to Animals Act.**
37
38 Do you understand that charge, sir?
39 THE ACCUSED: Yes.
40 THE COURT: And you understand that's what you are
41 admitting if you plead guilty?
42 THE ACCUSED: Yes.
43 THE COURT: In terms of sentence, you understand I will
44 hear from both Crown counsel and your lawyer
45 concerning what might be an appropriate sentence.
46 I will take what they tell me very seriously,
47 particularly if they agree upon that, which often

Proceedings

1 happens, but I need to make sure you understand
2 that I am not necessarily bound to follow what
3 they tell me is the appropriate sentence, the
4 final decision is mine and not counsels. Do you
5 understand that?

6 THE ACCUSED: Yes, I understand. Mr. Chudiak told me.

7 THE COURT: All right. So knowing all of these things,
8 do you confirm your guilty plea?

9 THE ACCUSED: Yes.

10 THE COURT: All right. Thank you.

11 A guilty plea will be recorded with respect
12 to Dale Blaikie only, on Count 2 only, of
13 Information 23166, sequence 1.

14 MR. GALBRAITH: And the Crown enters a stay of
15 proceedings with respect to Jolynn Blaikie on
16 Count 2 and with respect to both accused on Count
17 1.

18 THE COURT: Thank you. We're dealing with sentence
19 this morning then?

20 MR. GALBRAITH: Yes, Your Honour.

21

22 **SUBMISSIONS BY CROWN:**

23

24 MR. GALBRAITH: On -- during September of 2006, the
25 SPCA got a report of a dog being in distress at
26 the Blaikies residence, so the SPCA special
27 constable, Eyford, goes to the Blaikies residence;
28 they find a grey Scottish terrier mix dog with a
29 wound to its genital area. On examination, it
30 appears as though the dog -- there was an attempt
31 made to castrate the dog by putting an elastic
32 band around its testicles and that had partially
33 worked, but the -- the area had become infected.

34 Ultimately the SPCA seize the dog and there's
35 a report from the vet, who treated the dog, gave
36 it antibiotics, cleaned out the wound and so
37 forth, indicating that there was an infection
38 there and that the dog was in distress because of
39 that infection and that it needed medical
40 treatment.

41 The SPCA did give the dog the medical
42 treatments and incurred \$439.56 in expenses, and
43 the SPCA is seeking -- or the Crown is seeking
44 restitution for that amount, payable to the SPCA.
45 Crown is also seeking a \$300 fine and a - I
46 suppose it would be an **Offence Act** recognizance -
47 preventing Mr. Blaikie from owning dogs for a

Submissions by Crown

1 period of two years.

2 THE COURT: Well, is that not a provision of the **SPCA**
3 **Act** -- or the **PCA Act**, rather than the **Offence**
4 **Act**?

5 MR. GALBRAITH: They are --

6 THE COURT: I don't have it here, because I didn't know
7 we were dealing with this, but I recall there is
8 some specific provision of that **Act** that allows
9 for sanctions of that sort.

10 MR. GALBRAITH: There is. The note I had suggested
11 that that's the route -- we're going the route of
12 a probation order or recognizance, but if -- I
13 don't think it matters to my friend, and I think
14 it's probably cleaner if we go that route.

15 THE COURT: Which?

16 MR. GALBRAITH: The route of an **SPCA Act** order.

17 THE COURT: All right. Does somebody have a copy of it
18 with them?

19 MR. GALBRAITH: I have an excerpt from the **SPCA Act**.
20 I'll see if it covers that section while my friend
21 is making his submissions and if it doesn't I'll
22 -- we'll have to stand down and I can fetch it.

23 THE COURT: Well, I can -- if we have to stand down I
24 can get it.

25

26 **SUBMISSIONS BY DEFENCE:**

27

28 MR. CHUDIAK: Yes, Your Honour.

29 Mr. Blaikie is 35 years of age, he's married
30 12 years, has three children, ranges 10 to four.
31 His wife also works part-time. He's the
32 owner/operator of Blaikie Tree Services and has
33 been working there since 1989. His father -- it's
34 him and his father's business, and he's basically
35 taking over his father's business. Lived in the
36 Quesnel area for 10 -- about 10, 11 years. Prior
37 to that he was on Vancouver Island.

38 In respect to him and -- his father and he
39 had a ranch, and they've had cows on the ranch, up
40 to a hundred head in a certain -- at certain parts
41 of the time. In respect of the -- this matter,
42 they -- cattle, they quite frequently use a rubber
43 band technique to castrate the cows -- the steers,
44 and in doing so that -- the question whether that
45 is cruel and unusual punishment, according to some
46 veterinarians it is and it isn't, depending upon
47 the nature of the situation. Mr. Blaikie has been

Submissions by Defence

1 using that method for the cows for many years
2 without trouble, and he did so with respect -- he
3 did that method with respect to their -- the dog.
4 Okay.

5 We don't necessarily agree with the fact that
6 there was an infection. I think the histologist's
7 report was going to let us know if there was an
8 infection, and I don't think -- I don't -- I don't
9 necessarily believe that there was actually and
10 infection, but nevertheless the gist of the
11 offence is the actual -- the castration by using
12 the rubber band method on a dog, versus cows.

13 Mr. Blaikie monitored the dog and, you know,
14 to -- to ensure that the dog, you know, was fine,
15 and this is -- and the castration started much
16 earlier I think, 10 or 15 days before that, before
17 the SPCA became -- became involved with the
18 process, and in doing so monitored the dog and was
19 -- the question whether at the time the dog was
20 apprehended, whether it was under distress versus
21 earlier. And we're saying -- I mean, it could be
22 argued issue; Mr. Blaikie wants to get this matter
23 dealt with. He has entered his guilty plea with
24 respect to this. My friend and I have discussed
25 this matter. And if the matter proceeded to trial
26 it would necessitate at least two veterinarians to
27 provide opinions, one for the Crown and one for
28 the defence. And using the castration of a rubber
29 band method with the dogs is slightly different
30 than the castration with respect to the steers,
31 and we acknowledge -- Mr. Blaikie acknowledges
32 that and -- and as such he's entering
33 [indiscernible/voice fading away] at this point in
34 time.

35 And you know, I guess I suppose in summary
36 what was done in the past doesn't necessarily mean
37 it can be done in the future, with respect to the
38 practices that had -- were acceptable at some
39 time, are maybe not acceptable at this point in
40 time. And you know, it's not -- Mr. Blaikie is
41 familiar with the process, he has done it on the
42 cattle, quite frequent -- well, you know, for all
43 the time they had the cattle, but in this
44 situation it may have not been appropriate with
45 respect to the dog.

46 THE COURT: Where is the dog now?

47 MR. CHUDIAK: The SPCA put the dog down. They didn't

Submissions by Defence

1 -- they put the dog down, not as a result of
2 anything that Mr. Blaikie did, other than that
3 they -- they seized the dog, and that's what they
4 did, and once they seized the dog it was out of
5 Mr. Blaikie's hands.

6 THE COURT: And is he agreeable to the restitution
7 portion?

8 MR. CHUDIAK: Yes, we are, yes.

9 MR. GALBRAITH: And Your Honour, I found the section,
10 24(3):

11
12 [May] prohibit the person from owning or
13 having custody or control of an animal for a
14 period of time specified...

15
16 24(3), it's on the bottom of that.

17 THE COURT: And the period of time you're talking about
18 here was?

19 MR. GALBRAITH: Two years.

20 THE COURT: All right. And that's agreed to I take it?

21 MR. CHUDIAK: Yes.

22

23 [REASONS AT SENTENCE]

24

25 (PROCEEDINGS CONCLUDED)

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**File No: 23166-1
Registry: Quesnel**

In the Provincial Court of British Columbia

REGINA

v.

**JOLYNN MARY BLAIKIE
DALE BLAIKIE**

**REASONS FOR SENTENCE
(Re Accused Dale Blaikie)
OF
THE HONOURABLE JUDGE E. C. BLAKE**

COPY

Crown Counsel:	V. Galbraith
Defence Counsel:	B. Chudiak
Place of Hearing:	Quesnel, B.C.
Date of Judgment:	May 10, 2007

[1] THE COURT: I am not going to comment on this particularly. I gather there is perhaps more to this than meets the eye, in terms of historical practice and the appropriateness of such practice with respect to small dogs.

[2] I accept that there has been a guilty plea entered, and that that is an expression of remorse and an acknowledgement of wrongdoing. For my purposes, particularly in light of the fact that counsel have agreed on the disposition, that is sufficient and I am not going to comment further.

[3] There will be a fine in the amount of \$300. The Victim Fine Surcharge will apply to that, so that the total amount is actually \$345.

[4] Does your client need some time to pay that?

[5] MR. CHUDIAK: Approximately -- say a month.

[6] THE COURT: All right. Well, I will allow Mr. Blaikie until June 30th, 2007 to make payment in full. Mr. Blaikie, you can pay any portion of that amount at any time, so long as all of it is paid by the end of June. If you require more time to pay, you can attend at the registry and apply for an extension, and that does not normally involve actually coming into court. I would not suggest you allow the deadline to pass without either making payment, or making application for

an extension, because if you do not do either you will find that you are registered as a debtor to the provincial government, a status which can cause you to have immense difficulty gaining access to any government services, including perhaps such things as getting a driver's licence renewal. So if I were you, I would stay out of that particular tangle.

[7] In addition to the \$300 fine, there will be an order for restitution in the amount of \$439, payable to the clerk of the court for the benefit of the Society for the Prevention of Cruelty to Animals, and that would, I take it, be the Victoria office of the SPCA.

[8] MR. CHUDIAK: I was thinking more --

[9] MR. GALBRAITH: I was thinking --

[10] MR. CHUDIAK: -- the Quesnel office.

[11] MR. GALBRAITH: -- Quesnel. I think each branch has its own --

[12] THE COURT: Yes. I think you are quite right actually, Quesnel.

[13] MR. CHUDIAK: They are the ones who incurred the cost.

[14] THE COURT: Yes. Okay. Fair enough. That is payable to the clerk of the court for the benefit of the Quesnel branch of the SPCA.

[15] There will also be an order, pursuant to s. 24(3) of the **Prevention of Cruelty to Animals Act**, prohibiting Mr. Blaikie from owning or having custody or control of any animal for a period of two years.

[16] MR. CHUDIAK: I believe it's a dog. I understand that's what my friend -- it's a dog, not -- because he's got cows.

[17] THE COURT: Ah.

[18] MR. GALBRAITH: Yes, it was with respect of a dog.

[19] THE COURT: Okay. From having custody or control of any dog for a period of two years.

(REASONS CONCLUDED)