

Maryland Court Issues Important Ruling Clarifying Rights of Animal Owners

By

The Maryland Court of Appeals, the state's highest court, has issued an important decision clarifying the rights of an animal owner to regain custody of the owner's animals after they have been removed by the Humane Society due to prior mistreatment. *Daniel Rohrer v. Humane Society of Washington County* (June 27, 2017).

Section 10-615 of the Maryland Criminal Code provides that an officer of a humane society may take possession of an animal from its owner "if necessary to protect the animal from cruelty" or "if necessary for the health of the animal." In *Rohrer*, the Court of Appeals ruled that § 10-615 only gives the humane society authority to *temporarily* possess an animal when those standards are satisfied and does not purport to determine ownership of the animal. The Court also ruled that an animal owner does not relinquish its ownership rights even if a court has denied the owner's "petition for return" of the animal(s). Rather, the right to possess the animal reverts back to the owner when possession by the humane society is no longer necessary under the statutory standards, as determined in an appropriate administrative or judicial proceeding.

The *Rohrer* case arose after an officer of the Humane Society of Washington County, acting in concert with the Sheriff's Department pursuant to a criminal search and seizure warrant, removed about 100 cows, goats, and sheep from Mr. Rohrer's Boonsboro farm and relocated the animals at foster farms. Mr. Rohrer was charged with 318 misdemeanor counts of animal cruelty. A month later, the Humane Society notified Mr. Rohrer that it had removed the animals from his custody under CR § 10-615. The notice advised Mr. Rohrer that if he failed to petition for the return of the animals in district court within 10 days pursuant to § 10-615(d), the animals would be considered strays and disposed of according to Maryland law.

Mr. Rohrer timely filed a Petition for Return of his animals, but the district court denied the petition, primarily in light of the pending criminal charges. Mr. Rohrer appealed this denial to the circuit court. Meanwhile, the criminal charges proceeded to trial. At the outset, the State dismissed 288 of the 318 counts. Mr. Rohrer was ultimately found guilty of only five of the remaining 20 counts, relating to three animals. Mr. Rohrer was sentenced to probation before judgment and was required to comply with a farm management plan supervised by the Humane Society. Shortly thereafter, the circuit court upheld the district court's denial of Mr. Rohrer's Petition for Return, and Mr. Rohrer appealed to the Maryland Court of Appeals.

In its 58-page opinion, the Court of Appeals traced the development of Maryland's animal protection laws in order to provide context for its reading of the provisions, purpose and application of CR § 10-615. In doing so, the Court clarified several aspects of this provision. In addition to the core holdings summarized above, the Court also addressed Mr. Rohrer's argument that the Humane Society's invocation of § 10-615 was improper, because at the time it issued its notice, the animals were already in the custody of the State under the search warrant. The Court of Appeals rejected this argument, reasoning that the notice served to inform Mr. Rohrer of the Humane Society's intent to exercise its authority to take possession of the animals upon their release from State custody under the warrant.

The Court remanded the case back to the district court with instructions to determine whether the change in circumstances since the district court's initial decision merits a different disposition of Mr. Rohrer's Petition for Return of his animals.