

**The Self Help Group for Farmers, Pet Owners and Others experiencing
difficulties with the RSPCA (The SHG)**

Press Release

For Immediate Release
8th February 2008

RSPCA v ANNETTE NALLY

ANOTHER RSPCA CRUELTY CASE KICKED OUT

... ANOTHER DEFENDANT IS COMMENDED BY THE JUDGE

... AND THEN BREAKS DOWN IN TEARS

Annette Nally has, following 5 days in court and the expenditure of tens of thousands of pounds, joined the list of highly-respectable Defendants to RSPCA private prosecutions who should “never have been prosecuted”. Her case was tried by Judge David Chinnery – its sole result being even more serious criticism of the RSPCA’s beleaguered Prosecutions Department, which the RSPCA says is led by Barrister Sally Case.

Judge Chinnery’s remarks, in particular, focussed on the RSPCA’s non-disclosure of very important documents which showed the case was misconceived. The Learned Judge found that the case had been been “*punctuated with stops and starts due to the non-disclosure of documents by the [RSPCA] that should have in my opinion been disclosed to the defence from the outset*”.

The RSPCA claimed that, because it was a private prosecutor which was (incredibly) “not used to bringing prosecutions”, it did not think that it needed to disclose documents which undermined the prosecution case in the same way as the CPS would have to.

Ernest Vine of the Self Help Group for Farmers, Pet Owners and Others experiencing difficulties with the RSPCA said: “We at the SHG say that that is an incredible statement. The RSPCA brings hundreds, if not thousands, of prosecutions every year (we can’t say how many, because the RSPCA, which is a private organisation, is not required to, and will not, release up-to-date accurate information).”

“Annette Nally was, like most defendants to RSPCA prosecutions, a thoroughly decent woman. As Judge Chinnery rightly pointed out, her first taste of the courts was being prosecuted for cruelty to her pet dog. Holly, a German Shepherd dog, had been in Annette’s care for a very long time.”

“It was claimed by one RSPCA Inspector, on the infamous “unannounced visit” which Annette experienced, that Holly was in “lean condition”. Indeed, it was on this basis, and on the basis of allegedly untreated ear and bowel conditions, that the RSPCA claimed Annette was cruel. The RSPCA had to accept at trial that every one of Annette’s other animals were, and had always been, in excellent condition.”

“There were therefore strong parallels with last weeks’ judicial criticism of the RSPCA, by District Judge Philip Browning in Norwich, in RSPCA v Griffin”

Yet again in this case, the RSPCA's actions following seizure of the dog, prevented documents which dramatically assisted the defence from being seen by the court and the defence until the trial was in full session. The undisclosed documents would have shown that Holly's ears had not required any treatment at all after the RSPCA took her. How then could an omission on Annette's part be proved, it might be asked.

When disclosure of these boarding records was required, the RSPCA disclosed the wrong ones.

The dog whose records were released was not Holly.

When Holly's notes came through it became clear that there had been no treatment whatsoever for her ears. However, more than this, the routine wormers and broad-spectrum antibiotics, which the RSPCA's vets claimed had been prescribed, had never once been recorded as having been provided to the dog! So much for Annette's failure to provide this "necessary" treatment!

It was obviously very lucky that the mistake which the RSPCA claimed to have made in relation to the notes was eventually uncovered. However, it was too late for Holly. She died six months into her stay with the RSPCA. Annette was not told about this, and only found out five months after Holly's death. She was, like so many animal owners who have had their animals taken away, not allowed to see her dog in the RSPCA's "place of safety". Annette is still waiting for Holly's body to be returned to her so that she can lay her to rest.

Some important quotes from the Judge David Chinnery's findings include:

- (1) "I heard evidence from Miss Annette Nally and from Mr Colin Vogel [defence vet] who were both impressive witnesses but for different reasons ... Mr Vogel gave impartial and impressive evidence. ***I am satisfied that you [Miss Nally] are an experienced animal owner and have cared for them for many years.***"
- (2) "I note that Miss Nally is a lady of good character which is never a defence in itself but it supports your credibility and means you are less likely to tell untruths ... ***I believe Miss Nally's evidence and that she would not commit any offence, least of all offences of this kind.***"
- (3) "I find as a fact that Holly was a German Shepherd dog and at the top end of the scale for her age, being around 14 years old ... She had a temperature of 103, which went back down to 102.5. ***I accept that the increased temperature at seizure could well be due to the stresses of her removal.*** The teeth were not perfect, but she was an old dog. The ears were red and inflamed, but did not require any treatment at all from the RSPCA after seizure."
- (4) "***The prosecution submit that the test of cruelty is purely objective and mens rea is not necessary.*** The defence do not accept this and I have been referred to various cases including RSPCA v Hall, RSPCA v Isaac, RSPCA v Peterssen and RSPCA v Hussey. On the evidence, the only concern that was obvious to Miss Nally was the bowel problem but even with careful monitoring little changed."

- (5) **“I am in no way persuaded that during the summonses’ period or leading up to it that Holly has suffered. People do seek veterinary advice for all sorts of reasons but I cannot find any reason why Miss Nally should have.”**
- (6) **“The summonses were not laid until two days before the six month expiry period. This case has been punctuated with stops and starts due to the non-disclosure of documents by the Prosecution that should have in my opinion been disclosed to the defence from the outset.** I make no criticism of Mr Cave personally for this failing and thank him for his efforts in ensuring these documents were [eventually] disclosed [by the RSPCA] during the trial.”

Following the case, Annette Nally broke down in tears and was unable to speak. The good news for her is that she will not have to pay the tens of thousands of pounds of costs which the RSPCA ran up in prosecuting yet another ridiculous case.

Anne Kasica, from the SHG, said: “Annette is a kind and decent woman. It was, as it so often is, a pleasure to help another victim of the RSPCA in this case. So many people still do not find their way to the specialist lawyers, such as Jonathan Cairns, who we put Annette in touch with. No reasonable prosecutor would have made the serious claims against Annette that the RSPCA instructed its team of hardened specialists to make - albeit six months after the event. They then claimed that they were inexperienced prosecutors and did not know the rules on disclosure. I believe that, if you ask the prosecutor where he is this week, you will find that he is on yet another cruelty case.”

Ernest Vine, said: “It seems that the RSPCA’s team may have regrettably again lost sight of the duty to be fair to the defendant against whom it makes these grotesque allegations of cruelty. It would be helpful if Sally Case were to remind the lawyers (instructed by her Department at very great expense to the charity) of the heavy duty that all prosecutors in a civilised country have – to be fair.”

“If the RSPCA focussed more on fairness, and less on putting out press releases and trying to procure convictions against people like Annette, this country would be a nicer, and very much safer, place in which to care for animals.”

“Although the Judge made the right decision, no one – least of all Annette and Holly - can be said to be a “winner”.”

Before: District Judge David Chinnery, sitting at Leamington Spa

Prosecution Counsel: Mr J Cave

Defence Counsel: Anne-Marie Gregory

Defence Solicitor: Jonathan Cairns of O’Garra’s Solicitors Leeds

Notes to Editors: -

1. The claim that cruelty is “an offence of strict liability”, requiring no mens rea (“wrongful mind”) and an objective standard of care, is one which the RSPCA’s team of highly paid specialist lawyers makes time and time again. The Court of Appeal made clear findings on this point in RSPCA v Peterssen - a Defendant has to behave unreasonably in all the circumstances as (s)he knows them to be. However, the RSPCA took another specimen case to appeal - RSPCA v Isaac (correct). There, the RSPCA’s lawyers appeared alone, having promised Ms Isaac an acquittal, but failed to cite RSPCA v Peterssen to the Court of Appeal. Indeed, the Court of Appeal in Isaac was led to, and it is clear from the judgement of Lord Justice Holland did, believe the case was the first occasion that the 1911 Act had ever come before a court of record. Many lawyers, inexperienced in animal welfare law, have since fallen for the “strict liability” argument. We would direct them, and the reader, to the unreported cases rightly relied on by the defence in this case. In RSPCA v C -

another of the more infamous RSPCA cases - the RSPCA unsuccessfully appealed findings that it was wrong to impose a uniform adult standard of care on a child. The child was said by the charity to have failed to summon a vet to care for a cat with a bad tail sufficiently quickly.

2. The RSPCA, in order to increase the “stigma” that defendants like Annette have to face before and during trial, promotes the idea that there are strong links between child abuse and animal abuse. Jonathan Silk, South West Regional Director RSPCA, is Chairman of “The Links Group”, whose sole purpose is to promote the idea of a strong link between these most regrettable, and in our view unrelated, phenomena.
3. Annette Nally's case is very far from being the first time that such serious findings have been made against the RSPCA. Indeed, as a very basic example, and as seasoned “RSPCA-watchers” will all know, the RSPCA has a conviction - which, unsurprisingly, Ms Case and her team of highly-paid specialists do not like talking about - arising out of the RSPCA v Retallick case, for perverting the course of justice. Very senior personnel from the RSPCA were involved in disciplining one of their own inspectors for allowing material which assisted the defence to fall into the hands of the defendant's lawyers (see Attorney General v RSPCA, The Times [1985] 22 June). The result of this, back then, was a huge fine in the Attorney General's contempt proceedings against the charity.

References

The Attorney General v The Royal Society for the Prevention of Cruelty to Animals
<http://cheetah.webtribe.net/~animadversion/The%20Attorney%20General%20v%20The%20Rspca.htm>

For further comment please contact Anne Kasica on 01559 371031 or Ernest Vine on 01559 370566. Mobile 07719 367148. e-mail: shg@the-shg.org

The SHG was officially formed in June 1990 and has been helping people to defend themselves and their animals from the RSPCA ever since. The national help line number is **08700 72 66 89**

A copy of this and previous press releases from The SHG are online at
<http://www.the-shg.org/SHGPressReleases.htm>

Background information on the Self Help Group for Farmers Pet Owners and Other Experiencing Difficulties with the RSPCA can be found at <http://www.the-shg.org>

Details of further criticisms of the RSPCA can be found at the RSPCA-Animadversion website:
<http://cheetah.webtribe.net/~animadversion>

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