



MISSOURI ALLIANCE FOR ANIMAL LEGISLATION E-NEWS – February 4, 2014

JUDGE REVERSES RULING - CRUEL PUPPY MILLS CAN BE PROSECUTED

Judge further reverses himself and allows for unannounced inspections



In a fortunate turn of events, Michael Hendrickson, Circuit Judge in Webster County Missouri, recently affirmed that he erred when he ruled that the Attorney General’s office could not seek civil penalties against substandard puppy mills if such facilities corrected their violations of the law by the time of trial.

The judge’s original ruling this past July seemed incredulous on its face. Basically, the judge was telling dog breeders that they can violate the state laws and regulations protecting dogs in commercial breeding establishments as long as they comply with the law by the time legal action has progressed to a trial date. **In other words, you can beat your dogs but just stop beating them on the day of the trial.**

In another shocking ruling, the judge initially restricted the hours that the Department of Agriculture could inspect and ruled that the state needed to give a dog breeder “not less than a

thirty minute” advance notice before conducting inspections. This ruling was handed down even though the Court had no authority to prohibit the Department from conducting unannounced inspections to comply with its obligations under the law. Unfortunately, this judge allowed his personal disregard for the humane treatment of animals to cloud his legal judgment and to ignore the black letter of the law.

Most distressing, this ruling involved a dog breeder who was charged with “Posing a Substantial Ongoing Risk to the Health and Welfare of Animals,” “Inadequate Veterinary Care,” and “Inadequate Health and Husbandry,” among other charges. **The Missouri Department of Agriculture had documented more than fifty violations beginning on August 16, 2012 and continuing to July 5, 2013.** *A fellow circuit judge in the region called Judge Hendrickson’s original ruling in this case “an embarrassment.”*

If left to stand, this ruling could have established a dangerous precedent and dog breeders would have had no incentive to ever comply with the law requiring humane standards of care for their dogs. Breeders could simply ignore the law for several months, if not longer, until legal action was initiated and an actual court date established before they would need to comply with the law and treat their dogs humanely. In the interim, the animals would have been left to languish and inhumane breeders would go unpunished as long as they complied by their court date.

And it is doubtful, if even then, the dogs would be cared for properly, as under this ruling the breeders would have to be given advanced notice of any inspection to verify their compliance with the law. Thirty minutes would have been ample time for the defendants to cover up egregious violations of the animal welfare laws that were the subject of this complaint, such as dead dogs lying in close proximity to living animals, animal going without potable water, or time to quickly hide away animals that were suffering and in dire need of veterinary care.



Assistant Attorney General Jacob Westen

The Attorney General’s Office, fortunately, did not back down and continued to fight to protect the animals, not only in this particular case, but for similar cases in the future. Assistant Attorney General Jacob Westen filed a “Motion to Amend Judgment” stating that **“This Court must amend its Final Judgment and Order of Permanent Injunction in order to correct certain erroneous declarations of law and applications of law.”**

Subsequent to filing this Motion, the judge granted a court hearing in November to allow arguments on whether he should reconsider his original decision. At this hearing, Assistant Attorney General Westen presented cogent and compelling arguments against the initial ruling and asserted that the judge’s original ruling would render the current laws protecting dogs

“meaningless.” Astonishingly, it had to be pointed out to the judge that **the citations of law that he used to justify his original ruling did not even exist.**

At the conclusion of the hearing, Judge Hendrickson stated, “I regret that I provided a judgment that needs correction” and “I regret injunction against [unannounced] inspections.” It wasn’t until many weeks later, however, that Judge Hendrickson finally ruled that a breeder who violated the regulations could be fined for violations that were corrected by the time of the trial. He then increased the fines against the breeder, as previously, the breeder was only fined for violations that had not been corrected prior to trial date. The judge at this time also affirmed the right of the Department “to conduct inspections at all times as provided by law.”

We are grateful to the Attorney General’s Office and especially to Assistant Attorney General Jacob Westen for his resolve and determination to uphold the laws of the state protecting the welfare of animals.

This case is a painful reminder, however, that our work to protect animals is never done. Even after we successfully pass laws protecting animals, often times there is lax enforcement of such laws, including judges who fail to understand the importance of laws protecting animals and grant erroneous rulings and lax sentences. We can be thankful that in this case, at the end of the day, our puppy mill laws, specifically, the Animal Care Facilities Act and the Canine Cruelty Prevention Act, were eventually upheld.

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