

File No: 23804-1  
Registry: Nelson

**In the Provincial Court of British Columbia**

**REGINA**

**v.**

**ALFRED IRWIN STEINER**

**REASONS FOR SENTENCE  
OF  
THE HONOURABLE JUDGE HEWSON**

**COPY**

<b>Crown Counsel:</b>	<b>C. Morgan</b>
<b>Appearing on his own behalf:</b>	<b>A. Steiner</b>
<b>Place of Hearing:</b>	<b>Nelson, B.C.</b>
<b>Date of Judgment:</b>	<b>October 30, 2014</b>

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[1] THE COURT: These are reasons for sentence with respect to Mr. Alfred Steiner who has been convicted of causing distress to an animal contrary to the *Prevention of Cruelty to Animals Act*. The Crown proceeded in this case by indictment. The facts of this case have been canvassed in my reasons for judgment which I delivered orally earlier today.

[2] Briefly put, they are that on April 16, 2012, Mr. Steiner was living in Salmo with over 40 cats in his house. One of his cats, a six-toed cat named Hellboy, urinated on Mr. Steiner's couch. Mr. Steiner snapped, he lost his temper, and he threw the cat through the air against a wall. The cat suffered a broken leg. Mr. Steiner surrendered the cat to the SPCA and, after medical treatment, the cat recovered and was placed in a new home.

[3] Mr. Steiner is a resident of Salmo. He was born in 1960 and raised in Nelson. He left school after completing grade nine. He was employed in the logging industry, as a mechanic, and in carpentry. He was what others have referred to as a jack of all trades. When he was 24 years old, he was severely injured in a motor vehicle accident. His injuries included a traumatic brain injury. He lives alone and is supporting himself in Salmo on Canada Disability Pension payments which he supplements by money that he earns cutting firewood.

[4] According to his neighbour, Glenroy Livingston, he is a man of good character. Mr. Livingston has never seen him act aggressively toward an animal. However, Mr. Steiner has made a number of comments during the trial, and before it, indicating that he holds the SPCA and its employees in very low esteem. He has made threats against individual members of the SPCA.

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[5] Mr. Steiner has a criminal record, but his record includes no convictions for crimes of violence.

[6] This is a sentence hearing. The fundamental purpose of sentencing is to contribute to respect for the law and the maintenance of a just, peaceful, and safe society by imposing just sanctions that have one or more of the following objectives: denouncing unlawful conduct; deterring an offender and other persons from committing offences; where necessary to separate offenders from society; to assist in rehabilitating offenders; in some cases, to provide reparations; and to promote a sense of responsibility in offenders and acknowledgment of the harm done to victims and to the community.

[7] As Judge Cioni put it in a case called *R. v. Michelin*, this is an area of criminal law in which there is a trust dimension. "Mankind exerts dominion over lower forms of life", the judge said, "and therefore has a corresponding responsibility to them. Part of the custodianship of animals is not to kill them unlawfully". That judge also said there ought to be a strong message sent into the community that if persons choose to manhandle animals, they will run up against the *Criminal Code* sections intended to protect animals from human beings. What Judge Cioni said applies equally in cases where animals are not killed, but are merely injured and it applies, as well, to prosecutions under legislation other than the *Criminal Code* like the *Prevention of Cruelty to Animals Act*.

[8] The Supreme Court of Canada said that:

In the final analysis, the overarching duty of a sentencing judge is to draw upon all the legitimate principles of sentencing to determine a "just and appropriate" sentence which reflects the gravity of the offence

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committed and the moral blameworthiness of the offender.

They said that in a case called *R. v. C.A.M.* in 1996.

[9] The Crown takes the position that the appropriate sentence in Mr. Steiner's case is a jail sentence of 30 days followed by probation, and a lifetime prohibition on the possession of animals. A conditional sentence order is not available and the Crown has indicated that they would not be opposed to Mr. Steiner serving a jail sentence intermittently, in other words, serving his sentence on weekends.

[10] Mr. Steiner has maintained all along that he did not throw the cat against the wall, but he has said in response to a question from me that he thinks that an appropriate penalty for somebody who did do that would include anger management.

[11] The Crown has helpfully provided a number of sentencing decisions from the courts. The sentences, as Ms. Morgan has put it, are all over the map. All of the reported cases which I have seen deal with sentences imposed under the *Criminal Code*. Many of them deal with circumstances of long-term neglect or mistreatment as opposed to a sudden violent act committed in this case. I have had an opportunity over the lunch hour to review the cases submitted, or referred to by the Crown, and I will comment on some, but not all of them.

[12] In *R. v. Randell*, [1989] A.J. No. 280, where a person hit a dog with a hockey stick, the court imposed a fine of \$1,000. In *R. v. Jones*, [1997] O.J. No. 1288, a decision of the Ontario Court of Justice, a youthful offender with no prior criminal record, choked, kicked, dragged, punched, and threw a dog causing it to suffer a

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broken leg which remained in a cast for several weeks. The offender did not accept responsibility and received a 45-day sentence of imprisonment followed by 12 months' probation.

[13] In addition to the cases provided to me by the Crown, I have found a decision of Judge Semenuk of the Ontario Provincial Court in a case called *Her Majesty the Queen v. Danfousse*, 2013 ABPC 346, and I have copies, Madam Clerk, that you could pass to Mr. Steiner and Ms. Morgan. In this case, the offender was found guilty of a charge contrary to s. 445.1(1)(a) of the *Criminal Code* and he was sentenced to 15 months' probation. The circumstances related in the decision are that in a fit of anger, Mr. Danfousse kicked a cat twice, the first time down a flight of stairs and the second time through an open door into the snow outside. The cat suffered serious injuries, but survived.

[14] Mr. Steiner has a criminal record which he has acknowledged, but his record includes no convictions for crimes of violence.

[15] In the case before me, there are certain aggravating factors. They include:

1. This is a serious offence against a vulnerable animal which the offender had a duty to care for.
2. The animal suffered a serious injury, a broken leg.
3. Mr. Steiner has never accepted responsibility for his conduct.
4. Mr. Steiner has a criminal record.

[16] The fact that Mr. Steiner pleaded not guilty and went to trial is not an aggravating factor. It is his right to defend himself at trial.

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[17] There are also mitigating factors. They are Mr. Steiner has complied with all conditions of his release. His criminal record is dated and unrelated to the charges before the court. Following the injury to Hellboy, Mr. Steiner made some attempts to seek veterinary care. They were imperfect, but there were at least sufficient to bring the animal's injury to the attention of the authorities. The offence he committed was spontaneous and impulsive.

[18] It is important to remember what this offence is or was and what it was not. It was a violent attack on a defenceless creature who depended absolutely on Mr. Steiner for care and for the necessities of life, it was prosecuted under provincial regulatory legislation, and the cat received medical treatment and is now living in a new home. It was not an attack on a child or a vulnerable person, it was not premeditated, it was not of long duration, and it was not committed for the sadistic pleasure of the attack. It did not lead to the death of the animal. It was not prosecuted under the *Criminal Code*.

[19] Mr. Steiner, would you please stand, sir?

[20] Having considered the law, the circumstances, and the factors that I have outlined, I have concluded that a fair and fit sentence to pass upon you is to place you on probation under the *Offence Act* for a term of 18 months.

[21] The conditions of the probation order will be as follows: you must keep the peace and be of good behaviour; you must appear before the court when required to do so by the court; you must notify the court or the probation officer in advance of any change of name or address, and promptly notify the court or the probation officer of any change of employment or occupation.

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[22] I have notes that I can give you, Madam Clerk, where these conditions are set out.

[23] You must report by phone to the probation officer no later than three o'clock p.m. tomorrow at the probation officer's telephone number which is 250-365-8598 or 1-877-365-8518, and you must report thereafter as and when directed by the probation officer.

[24] The first time you report to a probation officer, you must inform him or her of your current residential address and phone number and you must not change that address or phone number unless the probation officer has consented in writing in advance.

[25] You must have no contact directly or indirectly with Constable Irons, Robert Andrews, Danielle Jackman, Brianne Stevenson, or Marie-Jose Bourgeois, except for the purpose of arranging, facilitating, or otherwise obtaining veterinary care for an animal in your possession.

[26] THE ACCUSED: I will not contact them for anything. If anything, I will contact CAPS, they are a much better organization than the SPCA and they are not even government funded, sir.

[27] THE COURT: Be quiet. I am at the point where I am about to say that you can have a cat in your possession, but if you open your mouth one more time, one more time, and if you dispute --

[28] THE ACCUSED: I am sorry, Your Honour.

[29] THE COURT: -- what I am telling you right now, I am going to conclude that

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you are not worthy to have an animal in your possession and I will prohibit you from having an animal in your possession until the day you die. So keep -- we will stand down for five minutes.

[30] THE CLERK: Order in court. All rise.

[31] THE COURT: Thank you.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RECONVENED)

[32] THE CLERK: This court is reconvened, and recalling the matter of Alfred Steiner, 23804.

[33] THE COURT: Just stand up for a second, Mr. Steiner.

[34] Mr. Steiner, you interrupted me in the middle of the sentence that I was going to pass on you. I find that highly disrespectful and I am going to tell you that you probably do not want to open your mouth again unless I invite you to say something. The disrespect -- throughout this trial which has been long and difficult both for you and for the Crown, you have worked hard to be courteous and respectful to me, but I am not going to tolerate any further disrespect. I considered very carefully whether the disrespect that you showed me should cause me to change what I thought was an appropriate and just sentence and I have decided that in light of your medical history and in light of the efforts that you have made to be courteous throughout this trial that I am going to look the other way this time, but Mr. Steiner, you are on very, very thin ice. All right. So --

[35] THE ACCUSED: I realize that, Your Honour.

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[36] THE COURT: So please be seated and listen to the rest of what I have to say.

[37] You must have no contact directly or indirectly with Constable Irons, Robert Andrews, Danielle Jackman, Brianne Stevenson, or Marie-Jose Bourgeois, except for the purpose of arranging, facilitating, or otherwise obtaining veterinary care for an animal in your possession.

[38] You must not go to or be within 100 metres of any place which you know to be the residence or school of any person named in the preceding condition of this order, and you must not go within 100 metres of any place which you know to be their workplace, except for the purpose of arranging, facilitating, or otherwise obtaining veterinary care for an animal in your possession.

[39] You must not own or have custody or control of an animal except that you may be allowed to own and care for not more than two adult cats that have been spayed or neutered. If you choose to own or have custody or control of a cat, you must allow a peace officer or an officer of the SPCA to attend at your house and confirm your compliance with the preceding condition of this order.

[40] You must attend, participate in, and successfully complete any intake, assessment, counselling, or program as directed by your probation officer.

[41] You must comply with all rules and regulations of any such intake, assessment, counselling, or program, and such counselling or program may include anger management counselling.

[42] You must not possess a weapon as defined in s. 2 of the *Criminal Code*.

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[43] In addition, there will be an order under s. 24(3) of the *Prevention of Cruelty to Animals Act* in the following terms: you must not own or have custody or control of an animal, except that you may be allowed to own and care for not more than two adult cats that have been spayed or neutered; if you choose to own or have custody or control of a cat, you must allow a peace officer or an officer of the SPCA to attend at your house and confirm your compliance with the preceding condition of this order. That order will be a lifetime order.

[44] That concludes this matter.

[45] Mr. Steiner, the paperwork will be prepared for you and it will be ready for your signature in the registry in about an hour, sir.

[46] THE ACCUSED: Okay, thank you, Your Honour.

[47] THE CLERK: Your Honour, that last term -- that is a part of the probation and it is also a separate order for life?

[48] THE COURT: Two -- there is a probation order for 18 months --

[49] THE CLERK: Yes.

[50] THE COURT: -- and there is the lifetime prohibition --

[51] THE CLERK: Just for that one term?

[52] THE COURT: -- on possession of animals. Yes.

[53] THE CLERK: Okay.

[54] THE ACCUSED: Not any more than two cats.

[55] THE COURT: No more than two cats.

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[56] THE ACCUSED: No more than two cats.

[57] THE CLERK: Is it part of a suspended sentence or --

[58] THE ACCUSED: In other words, a male and a female.

[59] THE COURT: I think under the -- it is a probation order under the *Offence Act*.

[60] UNIDENTIFIED SPEAKER: That will all be explained to you --

[61] THE ACCUSED: Yes.

[62] UNIDENTIFIED SPEAKER: -- when they read it to you.

[63] UNIDENTIFIED SPEAKER: [Indiscernible/overlapping speakers]

[64] THE CLERK: But just -- so it does not need anything else attached to it?

[65] THE COURT: No, I do not think so.

[66] MS. MORGAN: Your Honour, s. 89 of the *Offence Act* does specify that it is -- the court would suspend the passing of sentence and impose a probation order.

[67] THE COURT: Then --

[68] THE CLERK: Oh, and victim surcharge. Mr. Steiner? Mr. Steiner?

[69] THE COURT: There is no victim surcharge. It is a suspended sentence and a probation order.

(REASONS FOR SENTENCE CONCLUDED)