

Citation: ☀ R. v. Minions
2022 BCPC 148

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IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
Criminal Court

REGINA

v.

**ROBERT MINIONS
AND
NEDDY TSIN-MINIONS**

**REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE J. CHALLENGER**

Counsel for the Crown:	J. Cryder
Appearing on her own behalf:	N. Tsin-Minions
Place of Hearing:	North Vancouver, B.C.
Dates of Hearing:	November 2, 3, 5, 8, 2021; January 31, 2021
Date of Judgment:	March 25, 2022

[1] Neddy Tsin-Minions faces two counts under the *Prevention of Cruelty to Animals Act* (the *Act*). These reasons follow a trial held in late 2021 and early 2022. The delay in proceedings up to the trial was occasioned by related Farming Industrial Review Board administrative proceedings, actions taken by the accused which delayed the proceedings and the pandemic.

[2] The information also charged Robert Minions, the husband of Ms. Tsin-Minions, however the Crown stayed the proceedings against him during the trial.

[3] The first count alleges that from the 24th to the 30th of November 2016 at Brackendale, being a person responsible for dogs, Ms. Tsin-Minions failed to care for those dogs including protecting them from circumstances that were likely to cause them to be in distress, in violation of s. 9.1(1) and thereby committed an offence contrary to s. 24(1) of the *Act*.

[4] The second count relates to the same dates and alleges that she caused or permitted the dogs to be or continue to be in distress in violation of s. 9.1(2) of the *Act*.

[5] The witnesses for the Crown were three officers for the Society for Prevention of Cruelty to Animals, a police officer who attended to keep the peace for the execution of a search warrant and a veterinarian, Dr. Walton.

[6] Ms. Tsin-Minions called her own veterinarian and Mr. Minions.

[7] There was no contest as to the date, time, place, jurisdiction or identification of the accused or that the animals in question were “dogs”. Neither was there any issue taken with the accused being a person responsible for the dogs in the house or in the vehicle outside in the yard. There were dogs found in another vehicle in the garage and the accused took the position she did not own those dogs.

THE LAW

[8] The charges are strict liability offences. The Crown must prove the *actus reus* beyond a reasonable doubt as set out in the elements of the offences charged. Should that onus be met, the accused must establish due diligence to the balance of

probability. In these circumstances, she must establish that it was more likely than not she did all that was reasonable in the circumstances to avoid causing an animal to be in conditions that were likely to cause distress or to avoid causing the animals to be in distress: *R. v Sault St. Marie* [1978] 2 S.C.R. 1299.

[9] The relevant definitions from s. 1 of the *Act* are:

A “person responsible”, in relation to an animal, includes a person who

- (a) owns an animal,
- (b) has custody or control of an animal, or
- (c) is an operator in relation to an animal;

For the purposes of this *Act*, an animal is in distress if it is

- (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
 - (a.1) kept in conditions that are unsanitary,
 - (a.2) not protected from excessive heat or cold,
- (b) injured, sick, in pain or suffering, or
- (c) abused or neglected.

- s. 9** (1) A person responsible for an animal must care for the animal, including protecting the animal from circumstances that are likely to cause the animal to be in distress.
- (2) A person responsible for an animal must not cause or permit the animal to be, or to continue to be, in distress.

Section 13 provides for the issuance of a warrant to search premises where there are reasonable grounds to believe there is an animal in distress in those premises.

- s. 24** (1) A person who contravenes section 9.1, 9.2, 9.3, 23, 23.1, 23.2 or 23.3 commits an offence.
- (2) [Repealed 2011-7-6.]
- (3) If a person is convicted of an offence under subsection (1), a justice may, in addition to any other penalty that may be imposed for the offence, prohibit the person from owning or having custody or control of an animal for a period of time specified by the justice.

- (4) A justice may make an order under subsection (3) on any terms the justice considers appropriate.
- (5) A person who fails to comply with an order made under subsection (3) commits an offence.

ISSUES

[10] The Crown submits the evidence establishes beyond a reasonable doubt that some of the dogs found were in distress as they were deprived of ventilation, space, water, care and veterinary treatment. They also say they were kept in conditions which were unsanitary. The overall circumstances were likely to cause the animals to be in distress and the condition of some of the dogs was such that the accused permitted them to be or to continue to be in distress.

[11] Ms. Tsin-Minions, who was self-represented, made a number of arguments, most without evidentiary foundation or which were immaterial. She said she needed to keep her dogs in vehicles to protect them from predators. She argued that the dogs she admitted to owning were not in distress. She also made collateral arguments based on certain provisions of the *Act*. She attempted to impeach the credibility of the investigating officers and argued that the expert veterinarian for the SPCA was biased.

REVIEW OF EVIDENCE

[12] The accused's home is located in a low density residential area at the end of a private road which connects 5 residential properties. There is a house and a large garage on the property. The yard is not fenced.

[13] As a result of a citizen complaint regarding neglected dogs, Cst. Thompson attended the Minion residence on November 24th 2016. She had not had any prior dealings with Ms. Tsin-Minions.

[14] Ms. Tsin-Minions answered the door. An odour of dog feces and urine was detected through the open door which was sufficiently intense to cause the officer concerns. Several dogs were heard barking and one was seen looking out a window.

Ms. Tsin-Minions declined to allow the officer to enter and ordered them off the property.

[15] Cst. Thompson continued with an investigation. A search warrant was issued on November 29th and executed on the 30th. There were 7 officers present for the execution of the warrant consisting of three SPCA investigators, two Squamish Animal Control Officers and two RCMP. They entered the property sometime around mid day.

[16] A total of 29 dogs were located on the property and all were seized and examined by Dr. Walton on behalf of the SPCA. Ms. Tsin-Minions was taken into custody by the RCMP as a result of her attempts to obstruct the investigation.

[17] Nineteen Coton du Tulears (Cotons) were found inside the house. Ms. Tsin-Minions was engaged in the breeding of Cotons, which are a small breed. There appeared to be three litters in the house.

[18] Eight dogs were found in a vehicle inside the garage which included one female and one male Old English Sheep dogs. The female was likely pregnant. There were four Cotons or similar breed dogs and two Tibetan spaniels. Two Old English Sheep dogs were located in another vehicle in the yard.

[19] The photographs of the home show it was generally in disarray. There were newspapers on the floor in a number of locations many of which were heavily soiled with urine and dried feces. The home was observed to smell very strongly of urine (ammonia) and feces.

[20] Plates of food were found which contained dried out canned food.

[21] One breeding female and her four pups were located on the main floor in a laundry room with the door closed. The temperature in the room was 27C. The room smelled strongly of urine and feces. There was no food and the water bowl contained debris.

[22] There were two adults and four pups located in one bedroom, three pups in a second bedroom and 5 adults in the master bedroom.

[23] The pups were not contained in pens. As such, they were exposed to hazards such as electrical cords, objects or materials which could be chewed, choked on or ingested.

[24] Two Old English Sheep dogs were located in a small SUV in the yard. The interior of the vehicle had been clawed and chewed up which created a hazard. There was no food or water in the vehicle. There was a strong smell of urine and feces. The windows had been left open 2 to 3 inches which was not sufficient to provide proper ventilation.

[25] The 8 dogs found in the small SUV in the garage were clearly distressed. The windows of the vehicle had been left open 2 to 3 inches but condensation was noted on the inside. The garage was dark. There was no water or food in the vehicle. The inside of this vehicle had also been clawed and chewed and was soiled with urine and feces. The dogs were also smeared with feces. There was a very strong odour of urine and feces in the vehicle. There was insufficient room in the vehicle to allow any of the dogs to rest and they were seen to be climbing all over each other when located.

VETERINARY EVIDENCE

[26] Dr. Walton was qualified to give expert evidence as a veterinarian. He has run a small animal practice since 2007 and has worked as a veterinarian since 2000. He has been a consulting veterinarian with the SPCA since 2006. He is paid for his services but said he would earn far more by seeing animals at his practice.

[27] He examined all of the dogs seized over the late afternoon and evening of November 30th at the West Vancouver Shelter.

[28] He gave general evidence with respect to the basic needs of dogs:

- Dogs require access to clean water at all times. This is especially important as their only means of regulating their body temperature is through evaporative cooling through expiration.
- Dogs require proper ventilation for maintaining a proper body temperature. A humid environment impedes their ability to cool themselves.

- Dogs are fastidious and highly sensitive to smell. Exposure to strong odours of urine and feces would cause them emotional distress and would also irritate their mucous membranes. This results in runny eyes and noses. Dogs require a separate area to eliminate waste.
- Bacteria will develop in uneaten canned food which, if ingested, can cause intestinal illness.
- Dogs need sufficient room to sleep or rest and for exercise. The minimum guidelines are 1.5 square meters for a Chihuahua and 4 square meters for a German shepherd.
- Dogs also need to be exposed to a natural light cycle as they follow a circadian rhythm.
- Matting of fur can cause distress as it will pull on the skin. In particular, feces matted into the fur around the rectum can cause discomfort and lead to infection. Urine on the skin can also cause scalding which can in turn lead to infection.
- The build up of tartar leads to deterioration of the teeth and gums which can become very painful. The bacteria which results can enter a dog's blood and cause heart and other organ failure.
- Pups should be kept in a whelping bin or cordoned off area to keep them safe from their need to chew. This also serves to contain their waste until such time as they can be house trained.

Medical Conditions of the Dogs Seized

[29] The Coton mothers and pups found inside the home were in reasonable condition both with respect to grooming and health. One mother had bleeding gums and vaginal discharge and was believed to have recently whelped. Another was also noted to have dental issues.

[30] However, four of the adults found in the master suite were matted and had dental issues and overgrown nails. The fifth had no notable issues.

[31] The Cotons in the vehicle were in much worse condition. One adult male Coton had feces matted on his legs, ocular discharge and nails which were long enough to cause deviation of the toes. Another adult male was emaciated and had discharge from one eye, matted paws and feces matted in the fur around the rectum. An adult female Coton had ocular discharge with long nails and feces matted around the rectum. Another adult female Coton had an ear infections and burrs in its coat.

[32] One younger male Coton or “terrier breed” had a burr matted into the fur over one eye that was likely painful and causing irritation to the cornea itself. The vet was able to remove the burr and the dog immediately responded with apparent relief.

[33] The rear end of the geriatric female found in the vehicle outside was mildly matted with feces stuck in the rectal area and the skin was urine scalded. She should have been receiving careful bathing of her skin on a regular basis if she was experiencing urinary incontinence.

[34] The younger male had a festering ear which had resulted from sutures from a previous surgery. This dog had also been recently neutered and had healed properly from that surgery. The ear flap (pinnae) needed to be cleaned regularly and as soon as any discharge was seen should have been taken to the vet to ensure any bacterial infection was dealt with at an early stage.

EVIDENCE FOR DEFENCE

[35] Mr. Minions testified that the 8 dogs in the vehicle in the garage belonged to friends. He was unable to provide the last name of these friends although he said they had known them for a year. He did not account for what occurred with them after their dogs were all seized by the SPCA.

[36] He said Ms. Tsin-Minions had arranged to groom these dogs for free. He had gone to the owners premises early that morning to pick them up. He left them in the vehicle in the garage at their property around 7:15 a.m. and went to work. He also left their two Old English Sheep dogs in the other vehicle. He said Ms. Tsin-Minions was aware he would be leaving the dogs in the vehicles awaiting her to get to them for grooming.

[37] He agreed that all the Coton pups in the house would sell for at least \$16,000.

[38] Dr. Grewal gave expert opinion evidence as a veterinarian. He qualified in India in 1992 and in Canada in 2008. Regrettably, he was not properly prepared to testify

and had never given expert evidence previously. He was unaware of some of the relevant provisions of the *Cruelty to Animals Act*.

[39] He agreed with the general statements of Dr. Walton regarding the needs of dogs.

[40] He had been Ms. Tsin-Minions' veterinarian since 2010. There had been 136 visits in that time. He agreed he earned income from Ms. Tsin-Minions as a client.

[41] He was aware she bred Cotons. He said her Cotons were mostly, but not always, well groomed. He said he was impressed with her care of the Coton pups in terms of attending to their vaccinations and giving them appropriate food.

[42] He had last been to the Tsin-Minions home in around 2015. He examined a female Coton dog in the foyer. He also went to see a sheepdog but saw it outside. On each occasion Ms. Tsin-Minions was expecting him.

[43] The female sheepdog in the outside vehicle had been diagnosed with urinary incontinence in 2016 and prescribed hormones. Failure to treat this condition can lead to urinary tract infections. He said the condition she was found in on November 30th would have taken weeks to develop.

[44] The other sheepdog in the outside vehicle had been the subject of a previous Notice of Distress in September of 2015 due to matting and dental issues. Due to an injury, Dr. Grewal performed surgery on its ear flap in June of 2016 and removed the sutures in July. In September he sedated the dog and cleaned its ears and prescribed medication. In November, just a week before the execution of the warrant, he neutered the dog. The sutures for that were to be removed after 14 days. At that time he noted the ear was scratched and he believed the wearing of a cone would allow the ear to heal.

[45] The dog was not wearing a cone when located by the SPCA and by then the ear had again festered.

[46] He agreed that a matted smelly coat would cause a dog distress. He said 27 degrees was a bit too warm for pups but not particularly so.

FINDINGS RE CREDIBILITY AND RELIABILITY

[47] The SPCA officers who testified had not had any prior dealings with the accused. They testified in a forthright and fair manner. Cst. Thompson, the lead investigator, had 10 years experience as a SPCA investigator; Cst. Ott had 15 years experience and Cst. Carey had 7 years experience.

[48] They candidly admitted when their recording of the exact numbers of dogs and where they were found differed. The sketch of the house and photographs were adequate and mostly accurate except for some minor discrepancies. However, they were not up to the standard of what might be produced by an experienced police investigator.

[49] The SPCA officers confirmed the home smelled very strongly of urine (ammonia) and faeces. One officer described it as being “over the top” in her experience. Cst. Thomas said there are strips which can measure ammonia in the air but that they are not trained to use them.

[50] Officer Ott recalled that Dr. Walton was on scene. This was a clear mistake in her recollection. She would have dealt with him when delivering the dogs to the shelter.

[51] Cst Biagioni was the RCMP officer on scene to keep the peace. He refreshed his recollection from the report prepared by the SPCA officers. Any records relating to the police file created when he arrested Ms. Tsin-Minions had been purged. He described entering the home and encountering Ms. Tsin-Minions. She was very upset and confrontational and continued to be defiant. As a result she was removed from the residence. I accept his evidence which was uncontroversial, not material and not challenged by the accused except on the basis that he had not prepared any notes at the time.

[52] I accept the evidence of Dr. Walton as to his observations of the health and condition of the dogs. He was engaged in “triage” and his initial findings must be viewed in this context. I find that any discrepancies with follow up care and actual diagnoses are due to this circumstance.

[53] Nothing turns of the ability of the SPCA officers or Dr. Walton to correctly identify the specific breed of dog they were dealing with. Many dogs look similar and many are mixed breeds.

[54] Ms. Tsin-Minions did not take issue with being a person responsible for the dogs in her home or in the vehicle in the yard. In argument, she suggested that she was not responsible for the dogs in the vehicle in the garage. However, her own witness testified that she had assumed responsibility for those dogs for at least the day.

[55] It is improbable that Ms. Tsin-Minions would have agreed, as a favour, to groom eight dogs in her bathroom, over the course of a day. Many of her own breeding Cotons were in need of grooming. The geriatric female Sheep dog was in desperate need of bathing and care given the feces matted around her rectum and urine burns to her skin.

[56] Furthermore, Ms. Tsin-Minions cross examined the officers about the risk they put her unvaccinated pups in by taking them to a shelter. Given this was a concern for her, it does not accord with probability that she would introduce 8 adult dogs she was not familiar with into her home with 11 unvaccinated puppies.

[57] It is beyond a reasonable co-incidence that the dogs to be groomed were of similar breeds to that already in possession of the accused. I do not accept the evidence of Mr. Minions that these dogs belonged to “friends”.

[58] Ms. Tsin-Minions did not lead evidence to meaningfully support a defence of due diligence.

[59] Accepting that the dogs did belong to a friend, there is no evidence that she even went to check on the number of or condition of the dogs knowing that they had been left in a vehicle in the garage in the early morning.

ANALYSIS AND CONCLUSION

[60] I infer Ms. Tsin-Minions had resorted to keeping dogs in their vehicles previously. If I am wrong in drawing that conclusion and the damage to the interiors of the vehicles occurred over the course of the morning, it illustrates the dogs in the vehicles were in distress.

[61] The dogs found in the vehicle in the garage were in the worst condition. Their grooming, hygiene and oral health had been neglected. Many of the dogs should have already been receiving veterinary care to ensure their conditions did not deteriorate unnecessarily. In particular, one Tibetan spaniel and one Coton were emaciated and the cause for the weight loss should have been investigated.

[62] The Crown suggested that the dogs in the worst shape were intentionally put away in the dark garage in case the SPCA returned to inspect the premises. Sadly, I suspect this proposition is likely correct. For the purposes of these reasons, it matters not if Mr. or Ms. Tsin-Minions simply used the vehicles as “kennels” or if they were attempting to hide those dogs they recognized to be neglected and in distress.

[63] The use of the vehicles as “kennels” for the dogs deprived them of adequate space, water and ventilation. This is especially so for the 8 dogs in the vehicle in the garage. Those dogs were also deprived of light. And, as a result of leaving them there, the conditions became unsanitary.

[64] The female Sheep dog was suffering from urine scalding and from being unclean. The Coton with the burr over its eye was in pain and suffering. A Tibetan terrier and a Coton were emaciated which indicates a potential serious illness and were therefore deprived of veterinary care.

[65] Many of the dogs were neglected to the extent they were matted and unclean.

[66] Many had dental issues which if left untreated, would be likely to cause pain. As I cannot conclude that they were in immediate need of dental care I cannot conclude beyond a reasonable doubt that they were suffering or deprived of proper veterinary treatment due to these concerns.

[67] Considering all the evidence of Dr. Walton and Dr. Grewal, who had been treating the Sheep dog with the festering ear, I cannot find that the festering of the ear was something that had been occurring for more than a few days and as such cannot be found to amount to a deprivation of veterinary care. However, it does illustrate the lack of care Ms. Tsin-Minions was able to give to any particular dog, even those recovering from surgery. She also failed to follow the advice of Dr. Grewal to use a cone to prevent further harm to the ear which could be caused by the dog scratching at it.

[68] The conditions in the home were unsanitary and there was a lack of proper ventilation. The pups were exposed to hazards. Some of the pups were exposed to overly warm temperatures with a lack of clean water.

[69] I find the conditions in the home, specifically with respect to the odour, the urine and feces covered newspapers left lying about and the pups being exposed to hazards are circumstances which were likely to cause the dogs in the home to be in distress due to being deprived of adequate ventilation and care and being kept in unsanitary conditions.

[70] I also find the failure to properly groom some of the dogs and ensure they were kept reasonably clean would be likely to cause the animals to be in distress due to being deprived of care. Specifically, the condition of the geriatric female Sheep dog was deplorable and clearly amounted to being in distress due to being deprived of adequate care and being kept in unsanitary conditions.

[71] I find the 8 dogs left in the vehicle in the garage from 7:15 in the morning until mid day without water and proper ventilation was cruel. I am left with no doubt that those dogs were in fact in distress.

[72] I find Ms. Tsin-Minions guilty on count 1 and on count 2.

The Honourable Judge J. Challenger
Provincial Court of British Columbia