

**IN THE PROVINCIAL COURT OF NOVA SCOTIA**

**Citation:** R. v. Perrault, 2007 NSPC 14

**Date:** March 30th, 2007

**Docket:** 1644362, 1644356

**Registry:** Halifax

Her Majesty the Queen

v.

Denis Perrault

**SENTENCE DECISION**

**Judge:** The Honourable Judge Anne S. Derrick

**Oral decision:** March 30<sup>th</sup>, 2007

**Charges:** Animal Cruelty Protection Act, Section 11(2) and  
Criminal Code, Section 446(1)(a)

**Counsel:** Crown - Susan MacKay  
Defence - Peter Mancini

**By the Court:**

[1] Mr. Perrault has pleaded guilty as an owner of a kitten to wilfully causing unnecessary pain, suffering, or injury to the kitten contrary to section 446(1)(a) of the *Criminal Code*. He also pleaded guilty, being the owner of a kitten, to causing the kitten to be or continue to be in distress contrary to section 11(2) of the provincial *Animal Cruelty Prevention Act*. Mr. Perrault was charged after it was determined that he had cut the penis and testicles off a kitten acquired by him for his 10 year old daughter. The kitten's distress continued through the weekend he was mutilated and while he was being treated in what was an unsuccessful effort to reverse the damage Mr. Perrault had inflicted.

[2] Mr. Perrault entered his guilty pleas on December 20, 2006. A Pre-Sentence Report was ordered and prepared and submissions on sentencing were made on March 6. I reserved my decision until today. I want to thank Ms. MacKay and Mr. Mancini for their submissions and the cases they provided to me.

**Facts**

[3] On April 22, 2006, Mr. Perrault's 10 year old daughter was visiting her father. They had earlier picked up a male and a female kitten and taken them to Mr. Perrault's home. The daughter's statement to police related that she had woken up in the night to some noise that then turned into

“a really sad miaow.” She saw her father with scissors and saw as well that there was blood. The male kitten limped over to her and she saw it was bleeding. She got blood on herself when she picked the kitten up. The daughter saw there was tape on the kitten’s stomach. When his daughter asked him what he had done, Mr. Perrault denied doing anything. The next day the daughter told her babysitter and her mother what she had seen. This led to the involvement of the Society for the Prevention of Cruelty to Animals (SPCA) and the police. The kittens were seized from Mr. Perrault, the female kitten later recovering from a respiratory infection. That kitten is not the subject of these proceedings.

[4] The male kitten did not recover. A veterinary doctor examining the kitten on April 24, 2006 reported what she described as an attempt to neuter the kitten. His testicles and penis had been cut off. The photographic evidence shows a gaping wound. The vet found a small piece of string present at the wound site and no connection to the kitten’s urethra. The kitten’s bladder was distended and could not be expressed, requiring a catheter to be sewn into place. Although the kitten seemed to rally, the urethra opening scarred over and during surgery on May 4 to correct the problem, the kitten died. I will note at this point that Mr. Perrault does not offer as an explanation for his wounding of the kitten that he was attempting to neuter it. Mr. Perrault does not have any explanation for what he did to the kitten.

[5] In Mr. Perrault’s hands, the kitten suffered terribly and the damage inflicted could not be repaired. Also damaged was his daughter’s trust in her father. She was subjected to the spectacle of the wounded, bleeding kitten which must have been very traumatic to her. Under section

722(4)(a) of the *Criminal Code*, she is the victim of this crime, as a co-owner of the kitten which had been acquired for her. What would have started out as an innocent pleasure of childhood, getting a kitten, turned into a dreadful lesson in human cruelty.

### **Crown and Defence Positions on Sentence**

[6] It falls to me now to sentence Mr. Perrault. The Crown has argued for a jail sentence. The Crown acknowledges two mitigating factors: Mr. Perrault's guilty pleas and the fact that he has no prior record. The Crown's position on sentence is that Mr. Perrault should receive, on the *Criminal Code* charge, 3 to 4 months in custody followed by 2 years of probation with conditions and a Victim Fine Surcharge. The Crown also seeks an Order under section 446(5) of the *Criminal Code*.

[7] The Crown's position on sentence for the *Animal Cruelty Prevention Act* charge is that Mr. Perrault should pay a \$1000 fine and the expenses incurred for the kitten's transportation and care and veterinary fees. These expenses total \$2377.48: \$2137.48 for the vet and \$240 for transportation and care. The Crown also seeks to have Mr. Perrault prohibited from animal ownership for the rest of his life, pursuant to section 18(2) of the *Animal Cruelty Prevention Act* which provides:

If an owner of an animal is found guilty of an offence under this Act or regulations, the judge may make an order restraining the owner from continuing to have custody of animals for such a period of time as specified by the court.

[8] Mr. Perrault has indicated that he will agree to a lifetime prohibition on animal ownership.

[9] On Mr. Perrault's behalf, Mr. Mancini has argued that a two year period of probation with conditions is the appropriate disposition here but that if a custodial sentence is deemed to be necessary, it should be a conditional sentence of 3 months with a curfew. Mr. Mancini submits that the Crown's position is at the high end for a jail term on a summary offence, where the maximum allowable custodial time is 6 months.

[10] Mr. Mancini has argued that in relation to the *Animal Cruelty Prevention Act* charge, a fine of \$200 would represent a significant penalty to Mr. Perrault given his financial situation. Mr. Perrault accepts that he should pay restitution to the SPCA for the veterinary and transport expenses, with time to pay. He asks for the Victim Fine Surcharge to be waived.

### **The Pre-Sentence Report and Defence Submissions on Mr. Perrault's Background**

[11] Mr. Perrault's Pre-Sentence Report was prepared without the benefit of interviews with collateral sources. It was amplified by submissions from Mr. Mancini. The Pre-Sentence Report does indicate that Mr. Perrault's relatives live in Quebec and do not speak English. Mr. Perrault also advised the author of the Pre-Sentence Report that he has not told many people about this matter because he feels ashamed and embarrassed by his actions. These factors may help to explain why

Mr. Perrault did not suggest people who could be contacted in the preparation of the Report. Despite the absence of collateral confirmation, I have nothing before me to suggest Mr. Perrault gave misleading information in his Pre-Sentence Report interview.

[12] Mr. Perrault's upbringing was neither happy nor secure. He has never known his biological father and his step-father was physically abusive to his mother. His mother was herself physically and verbally abusive when intoxicated and, although she brought Mr. Perrault and his brother up, at times Mr. Perrault had to stay with relatives for safety reasons.

[13] At 18 or 19, Mr. Perrault joined the Canadian Navy. A common-law relationship, now over, during his posting to Halifax produced his daughter. Mr. Perrault has maintained an ongoing relationship with his daughter although he was not permitted to have contact with her following the incident with the kitten for almost a year.

[14] Mr. Perrault, who is 39, retired from the Navy for physical and mental health reasons in 2003. He receives military and Veterans Affairs pensions supplemented by a pension income from a private insurance company. He lives modestly in a two bedroom apartment. It was submitted to me that he has about \$1500 a month to meet his expenses. He has approximately \$300 a month garnisheed for unpaid income tax. Some money is deducted from his Veterans Affairs pension to pay for medical expenses. According to the Pre-Sentence Report he owes about \$4000 for credit card, power service and court fine debts.

[15] Mr. Perrault has ongoing and serious health problems. He has chronic pain associated with hernia problems that is treated with Demerol. A neck injury sustained in the Navy continues to give him discomfort. Mr. Perrault was robbed in January 2006 and sustained a broken jaw. He has had six operations now, including the removal of a portion of his jaw due to infection and the grafting of bone from his hip. Mr. Perrault has experienced pain, sleeplessness and weight loss from these health problems.

[16] Mr. Perrault also reports serious mental health issues, notably post traumatic stress disorder acquired from his direct involvement, as a member of the Navy, in the recovery of body parts following the Swiss Air tragedy. Mr. Perrault has also been involved in the stress of rescues on the Grand Banks and in peacekeeping missions in the Mediterranean. He uses Paxil to treat depression.

[17] Mr. Perrault indicated to the author of the Pre-Sentence Report that he accepts responsibility for his actions and feels ashamed and embarrassed by them. He said he believes he let his daughter down and set a poor example for her. He could not explain what he had done and suggested there was no excuse or explanation for his behaviour. Mr. Mancini indicated that Mr. Perrault was physically sick and stressed at the time of the offence. In the Pre-Sentence Report interview Mr. Perrault expressed remorse for the kitten and also for the effect of his actions on his daughter. When asked if he had anything to say at his sentencing, Mr. Perrault stated that he is really sorry for his actions and observed that he had lost a lot of his daughter's trust because of what he did.

## **Legislated Principles of Sentencing**

[18] Parliament has articulated the fundamental purpose and principles of sentencing in sections 718 and 718.1 of the *Criminal Code*.

718. [Purpose] The fundamental purpose of sentencing is to contribute, along with crime prevention initiatives, 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:

- (a) to denounce unlawful conduct;
- (b) to deter the offender and other persons from committing offences;
- (c) to separate offenders from society, where necessary;
- (d) to assist in rehabilitating offenders;
- (e) to provide reparations for harm done to victims or to the community;  
and
- (f) to promote a sense of responsibility in offenders, and acknowledgment of the harm done to victims and to the community.



718.1 [Fundamental principle] A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

[19] 718.2 recites the other sentencing principles that the sentencing court is mandated to take into consideration, which for the purposes of this case are:

- (a) a sentence should be increased or reduced to account for any relevant aggravating or mitigating circumstances relating to the offence or the offender...

[20] Section 718.2 (iii) of the *Criminal Code* requires judges to treat as aggravating any evidence that the offender, in committing the offence, abused a position of trust or authority in relation to the victim. In her submissions, Crown counsel noted the reference in *Zeller* to the case of *R. v. Michelin* in which animal cruelty was described as an area of criminal law involving a “trust” dimension. I was not expressly asked by the Crown to apply section 718.2 (iii) to this case, but in any event, I do not find that the references in section 718.2 (iii) to an obligation of trust or the role of authority in relation to a victim was intended by Parliament to include animals.

[21] Section 718.2 of the *Criminal Code* also provides that:

- (b) a sentence should be similar to sentences imposed on similar offenders for similar offences committed in similar circumstances;
- (c) where consecutive sentences are imposed, the combined sentence should not be unduly long or harsh;
- (d) an offender should not be deprived of liberty, if less restrictive sanctions may be appropriate in the circumstances; and
- (e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders...

### Cases

[22] I have been referred by Crown and Defence to a number of animal cruelty sentencing decisions: *R. v. Jones*, [1997] O.J. No. 1288 (Ont. Ct. of Justice); *R. v. Fowlie*, [1998] N.B.J. No. 539 (N.B.Q.B.); *R. v. Zeller*, [1998] A.J. No. 351 (Alta. Prov.Ct.); *R. v. Bailey*, [2002] N.S.J. No. 182 (N.S. Prov. Ct.); *R. v. Campbell Brown*, [2004] A.J. No. 201 (Alta. P.C.) and *R. v. Pedersen*, [2005] B.C.J. No. 985 (B.C. Prov. Ct.)

[23] The *Zeller* case provides a helpful review of sentencing cases in this area and I will discuss it shortly. Several cases mentioned in *Zeller* I do not find to be applicable: *R. v. Karolev*, [1992] Y.J. No. 186; *R. v. Randell*, [1989] A.J. No. 280; and *R. v. Paul*, [1997] B.C.J. No. 808 all of which dealt with circumstances different from those of this case, including cruelty to dogs in *Karolev* and *Randell* inflicted by accused whose children had been attacked and, in *Paul*, the killing of a starving cat where the cat suffered only briefly. *Bailey* dealt with sentencing on three counts under the Nova Scotia *Animal Cruelty Prevention Act* for chronic neglect of dogs. Fines of \$400 on each count plus costs and Victim Fine Surcharges were imposed.

[24] I will now discuss the relevant cases, starting with *Zeller*. Mr. Zeller beat a puppy to death with a shovel in front of his terrified wife. Mr. Zeller had just terrorized his wife during a vicious argument where he smashed her sewing machine and the glass in a china cabinet. Reacting to his wife saying she was not sure she wanted him in her life, Mr. Zeller grabbed a shovel and hit the puppy on the head until it was dead. Mr. Zeller's statement to the police revealed his hostility toward the puppy and the fact that he had no patience for it. He told neighbours immediately after he killed the puppy that once it was dead he was fine and everything was okay. The sentencing judge treated as aggravating the fact that the killing of the puppy was an "extreme act of violence indirectly

perpetrated against [the wife] during the course of a domestic dispute." The judge went on to say at paragraph 12: "To cruelly take the life of the puppy before her eyes as he did was an extreme act of selfish violence, without regard to the helplessness of the puppy, or the impact such violence

would have on his wife at the time.”

[25] Mr. Zeller received a sixty day intermittent sentence followed by two years probation. The court, while recognizing the importance of rehabilitation, emphasized “the need for specific and general deterrence as equally important in this case”, and commented unfavourably on Mr. Zeller’s risk to re-offend, noting his lack of insight, potential for angry outbursts and his criminal record that included a conviction for arson. The court also remarked on Mr. Zeller’s apparent lack of remorse and his failure to live up to past court ordered commitments to pay restitution and obtain counselling.

[26] The court in *Zeller* noted that animal ownership carries with it responsibilities not to treat animals with unnecessary cruelty or subject them to unlawful killing. Animals, observed the court, depend on the human decency of their owners. This principle echoed the references in the *Michelin* case I mentioned earlier, where the court commented on the “trust” dimension in animal cruelty cases, noting that “dominion over lower forms of life [carries with it] a corresponding responsibility...”

[27] Wanton cruelty was also a feature in *R. v. Jones*, [1997] O.J. No. 1288 (Ontario Court of Justice). In *Jones*, the court described the youthful first offender’s actions as “mean spirited cruelty” for no other reason than showing off to others. The judge observed that the cruelty was really torture of the dog that “consumed a long period of time..” The dog suffered a broken leg and was in a cast

for 8 to 9 weeks. The judge, noting the offender's lack of remorse and rationalization of the events, sentenced him to 45 days in jail and a year's probation.

[28] In *R. v. Pederson*, [2005] B.C.J. No. 985 (B.C. Prov. Ct), Mr. Pederson's killing and mutilation of 31 geese, ducks and chickens was motivated by animosity toward their owner, a neighbourhood woman who had complained about him driving too fast on a road fronting her property. The animals were treated by the complainant as pets and the court found that Mr. Pederson, who committed the attack while intoxicated, intended it as a hostile message to the complainant. Mr. Pederson's extreme remorse, early admission of responsibility and his willingness to pay restitution were all noted as mitigating factors in sentencing. He was sentenced to one year, to be served as a conditional sentence. The principle of comity was influential in the court's assessment of the appropriate sentence for Mr. Pederson with reference being made to the one year conditional sentence handed down by a different judge to Mr. Pederson's co-accused.

[29] The Crown has argued that Mr. Perrault is dissimilar to Mr. Pederson who was 20 years old. Mr. Perrault is an older offender who committed an act of extreme cruelty while sober, and in the presence of his young daughter.

[30] In *R. v. Fowlie*, [1998] N.B.J. 539 (N.B.Q.B.), a conditional sentence was rejected by the court as not satisfying the requirements of general deterrence. Mr. Fowlie, for all intents and purposes a first offender, received a 90 day intermittent sentence for dragging a colt behind his truck and hitting it with a piece of wood. The horse suffered traumatic injuries and died. Mr. Fowlie, an

otherwise responsible animal owner and well-regarded employee, was extremely remorseful. He experienced being ostracized by neighbours and friends who were outraged by his conduct. The court found no justification for a “brutal act on a defenceless horse.” Mr. Fowlie claimed to have been trying to train or break the high-strung colt using a method he had employed in the past with a young horse. He had also been drinking on the day of the incident.

[31] I understand the Crown to be relying on the cases I have just discussed to support their position that a jail sentence of 3 - 4 months is required to satisfy denunciatory and deterrent objectives in this case. The Crown advances the view expressed in *R. v. Fowlie* that general deterrence in cases of animal cruelty is not satisfied by a conditional sentence and that actual jail time is required.

[32] Mr. Perrault’s defence counsel has urged me to accept the case of *R. v. Campbell Brown*, [2004] A.J. No. 201 (Alta. Prov. Ct.) as most applicable to the facts of this case. Ms. Campbell Brown, believing a neighbour’s dog, Ziggy, had mauled to death her duck and two geese, deliberately shot Ziggy in the head. She was in a frustrated, angry and upset state having not found anyone at her neighbour’s home to complain to about Ziggy’s repeated nuisance behaviours. Ziggy lived for about 10 minutes after he was shot and Ms. Campbell Brown surreptitiously disposed of his body. Ms. Campbell Brown was 56 with no criminal record and a documented history as a devoted animal lover. Her remorse for her actions was found to be couched in guarded and defensive terms and she offered to the court “an impersonal and detached” apology. The court rejected the Crown’s recommendation for a 2 - 4 month jail sentence, instead suspending sentence for 18 months

and placing Ms. Campbell Brown on probation with conditions. The court commented at paragraph 36 on the importance of sentencing according to principles of denunciation and deterrence without “dehumanizing or demonizing the offender.” In deciding against a jail sentence for Ms. Campbell Brown, the court at paragraph 56 referenced Parliament’s “increased emphasis on restorative justice and decreased emphasis on incarceration” and distinguished cases where animal torture, prior criminal records and the absence of a guilty plea were factors in courts imposing jail time. Ms. Campbell Brown’s limited insight into her actions led the court to conclude at paragraph 48 that one of the most important sentencing objectives was “the promotion of a sense of responsibility and acknowledgment of the harm done.” Ms. Campbell Brown was evaluated as presenting a low risk to re-offend.

### **Applying the Principles of Sentencing to this Case**

[33] The primary sentencing principles that I must consider are denunciation, specific and general deterrence and rehabilitation. While both the *Zeller* and *Campbell Brown* cases offer assistance, I do not find either case to be fundamentally similar to this one. Mr. Perrault committed a heinous act, mutilating a kitten in the presence of his daughter but his actions were not maliciously directed at anyone nor intended to punish or terrorize, so those elements, present in *Zeller*, are not features of this case. Unlike Mr. Zeller, Mr. Perrault was not acting in a violent rage, however his actions effectively constituted torture of the kitten in a manner that distinguishes his conduct from Ms. Campbell Brown’s where it appears she was trying to kill the dog to rid herself of a nuisance.

[34] The imperatives of denunciation and general deterrence in cases involving the effective torture of an animal are not, in my opinion, satisfied by a period of probation alone. The facts in *Campbell Brown* are too dissimilar from the facts in this case for it to represent a persuasive precedent for sentencing Mr. Perrault. As noted by the Supreme Court of Canada in *R. v. Proulx*, [2000] S.C.J. No. 6 at paragraph 23, a suspended sentence with probation is primarily a rehabilitative sentencing tool and notwithstanding the essential value of rehabilitation as a sentencing principle, it is not rehabilitation alone that I must focus on here.

[35] The sentence I impose on Mr. Perrault must represent a denunciation of his conduct, denunciation that will be emphasized by the attention this case has received through the media and with the general public. I agree with the commentary in *Pederson* and *Campbell Brown* at paragraphs 59 and 42 respectively, that media coverage is likely to enhance the effectiveness of the denunciation and general deterrence dimensions of a sentence. This view was also expressed by the Supreme Court of Canada in *R. v. Proulx*, [2000] S.C.J. No. 6, where the court, discussing conditional sentences, remarked on public awareness of the sentence serving the deterrence objective. Such public attention also reduces the need for individual deterrence, which I do not find to be a significant issue in this case in any event. Mr. Perrault has accepted responsibility for his horrendous actions and has made, in my view, a genuine expression of remorse. Furthermore he has agreed to be subject to a lifetime ban on animal ownership which represents a concrete acknowledgment of responsibility and goes a long way to addressing specific deterrence.



[35] A jail sentence operates to denounce and seeks to deter offenders and others who might emulate their actions, but it is not only jail that satisfies these sentencing norms. In *Proulx*, the Supreme Court of Canada comments at paragraph 22 on the deterrent capacity of a conditional sentence, an acknowledgment that incarcerating an offender is not the only mechanism for achieving sentencing objectives. *Proulx* recognized conditional sentences as punitive, “capable of achieving the objectives of denunciation and deterrence.” In *Proulx*, at paragraph 107, the Supreme Court of Canada held that conditional sentences “can provide significant deterrence if sufficiently punitive conditions are imposed and the public is made aware of the severity of these sentences.” The requirement that conditional sentences contain a punitive dimension means conditions of house arrest and strict curfews are the norm, not the exception. (Paragraphs 36 and 117, *Proulx*)

[36] A sentence must be crafted to suit the circumstances of the specific offence and the individual offender. I have considered the facts and circumstances of this case carefully. I have concluded that it is not necessary to resort to incarceration here to satisfy the principles of denunciation and deterrence. I am not satisfied that actual incarceration is appropriate in this case in light of the analysis in *Proulx*. *Proulx*, referencing the Ontario Court of Appeal decision in *R. v. Wismayer* (1997), 115 C.C.C. (3d) 18, warns that: “Judges should be wary...of placing too much weight on deterrence when choosing between a conditional sentence and incarceration.” *Proulx* establishes in paragraph 77 that: “Once the sentencing judge has found the offender guilty of an offence for which there is no minimum term of imprisonment, has rejected both a probationary sentence and a penitentiary term as inappropriate, and is satisfied that the offender would not endanger the community, the judge must then consider whether a conditional sentence would be consistent with

the fundamental purpose and principles of sentencing set out in ss. 718 to 718.2.” A conditional sentence is an alternative to actual incarceration and must be seriously considered where the statutory prerequisites are met. (See *Proulx*, paragraphs 90 and 95)

[38] Under section 718.2(e) of the *Criminal Code*, I must consider reasonable alternatives to incarceration for Mr. Perrault, which alternatives include a conditional sentence. I am satisfied that the statutory prerequisites for a conditional sentence are met here: Mr. Perrault could not receive more than 6 months for this offence and I have no basis to conclude that Mr. Perrault serving his sentence in the community would endanger community safety. I am also satisfied that a conditional sentence is the disposition most consistent with the fundamental purpose and principles of sentencing set out in section 718 to 718.2. As noted in *Proulx* at paragraph 113: “Where a combination of both punitive and restorative objectives may be achieved, a conditional sentence will likely be more appropriate than incarceration.”

[39] Mr. Perrault can be distinguished from the offenders who were sentenced to actual jail time in the cases I was referred to - Mr. Zeller, Mr. Fowlie and Mr. Jones. Mr. Perrault’s act was not compounded by a lack of remorse or cruelty for the purpose of showing off or unvarnished malice. Although the detail before me is lacking, Mr. Perrault’s post traumatic stress disorder must have played a role in what he did as his conduct is otherwise completely inexplicable. The probable role of Mr. Perrault’s mental health issues suggests there is a critical need to address Mr. Perrault’s rehabilitation which in my view should be started in the context of a conditional sentence and continued through a period of probation. Taking into account all the factors in this case, including

Mr. Perrault's psychological condition at the time of the offence, I believe that a conditional sentence with house arrest, and probation satisfy best the requirement that I impose a "just and appropriate sentence which reflects the gravity of the offence committed and the moral blameworthiness of the offender." (*R. v. M.(C.A.)*, [1996] 1 S.C.R. 500 at paragraph 82) It is my view that a conditional sentence in this case is also most consistent with the important principle of restraint in sentencing, that the sentence must be no more than is necessary or required to meet the fundamental purposes and principles of sentencing.

### **Sentence**

[40] On the basis of the analysis I have just undertaken, I am imposing the following sentence on Mr. Perrault, for the *Criminal Code* offence:

A **conditional sentence of 3 months** with the following conditions,

- >Keep the peace and be of good behaviour.
- >Appear before the court when required to do so by the Court.
- >Report to a supervisor at the Spryfield office on or before 4:30 p.m. March 30, 2007, and otherwise as directed.
- >Remain in the Province of Nova Scotia, unless written permission obtained from the court to leave.
- >Notify your supervisor promptly of any change of name, address, employment or occupation.

And in addition:

- >Attend for mental health assessment and counselling as directed by your supervisor;
- >Attend for assessment, counselling or a program as directed by your supervisor;
- >Participate in and co-operate with any assessment, counselling or program directed by your supervisor;
- >Remain in your residence at all times beginning at 6 p.m. on Friday March 30, 2007 for the duration of the conditional sentence, with the following exceptions;
  - >>When dealing with a medical emergency or medical appointment involving you or a member of your household and travelling to and from it by a direct route;
  - >>When attending a scheduled appointment with your lawyer, your supervisor or a probation officer, and travelling to and from the appointment by a direct route;
  - >>When attending court at a scheduled appearance or under subpoena, and travelling to and from court by a direct route;
  - >>When attending a counselling appointment or treatment program, at the direction of or with the permission of your supervisor and travelling to and from that appointment or program by a direct route;

>>For no more than 3 hours per week, approved in advance by your sentence supervisor, for the purpose of attending to personal needs;

>>For the purpose of facilitating access with your daughter by picking her up from and delivering her back to her home by a direct route with prior approval of your supervisor;

>Compliance: Prove your compliance with the house arrest/curfew condition by presenting yourself at the entrance of your residence should your supervisor or a peace officer attend their to check compliance.

The conditional sentence to be followed by 2 years **probation** with the following conditions:

>Report to probation officer within two business days of the expiry of your conditional sentence and thereafter as directed;

>Attend for mental health assessment and counselling as directed by your supervisor;

>Attend for assessment, counselling or a program as directed by your supervisor;

>Participate in and co-operate with any assessment, counselling or program directed by your supervisor;

[41] I am also imposing an Order under section 446(5) prohibiting your ownership of any animal anywhere in Canada for 2 years.

For the *Animal Cruelty Prevention Act* offence:

>I am ordering Mr. Perrault to pay, pursuant to section 14(1) of the *Act*, restitution in the total amount of \$2377.48 payable to the N.S. SPCA;

>I am imposing a fine of \$ 400. The fine range for a first offence under the *Act* is broad with a maximum allowable fine of \$5000. In this case, the Crown has argued that a \$1000 is appropriate. I must however consider Mr. Perrault's financial circumstances and his ability to pay. Mr. Perrault's circumstances are such that a fine of \$400 represents in my opinion a significant penalty, also considering the totality of the sentence I am imposing, including the restitution I have ordered under the *Act* and the lifetime prohibition on animal ownership I am ordering.

>As I just noted, I am ordering that Mr. Perrault be subject to a lifetime prohibition, pursuant to section 18(2) of the *Animal Cruelty Prevention Act*, from animal ownership. A violation of that order by Mr. Perrault would subject him to liability for a substantial fine and possible incarceration.

[42] I am waiving the VFS as I consider imposing it would constitute an undue hardship on Mr. Perrault given his financial circumstances and the fine and restitution I have imposed.

[43] I am also prepared to provide Mr. Perrault with time to pay the fine and restitution which will  
be 27 months, that is, to the end of the expiry of his total sentence.

[44] Mr. Perrault, as you have heard in my decision, this is obviously a very serious matter and I have concluded it is appropriate to sentence you to a custodial sentence but I have concluded it is appropriate for that sentence to be served in the community as a conditional sentence. I am satisfied that the important principles I have endeavoured to balance here, denunciation, deterrence and rehabilitation, are satisfied by the sentence I am imposing.

Judge Anne S. Derrick

Halifax Provincial Court

