

SUPREME COURT OF NOVA SCOTIA

Citation: *R. v. Benoit*, 2010 NSSC 97

Date: 20100316

Docket: Dig No. 310791

Registry: Digby

Between:

Gail Benoit and Dana Bailey

Appellants

v.

Her Majesty The Queen

Respondent

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Judge: The Honourable Justice Peter Bryson

Heard: February 3, 2010, in Digby, Nova Scotia

Subject: Criminal law: summary conviction appeals

Summary: Appellants appealed their convictions for failing to relieve animals in distress pursuant to the *Animal Cruelty Act*. Benoit also appealed her convictions for assault and obstruction, pursuant to ss. 279(1) and 129 of the **Criminal Code**.

Issues: Whether the appellants' **Charter** rights (ss. 6(2), 8, 15(1)) had been breached or otherwise there had been an abuse of process; whether the *Animal Cruelty Act* required that the appellants be given an opportunity to relieve the distress before being charged; whether findings of distress warranted on the evidence; whether the trial judge misapplied the S.C.C. decision of *R. v. W.(D.)*, [1991] 1 S.C.R. 742 in convicting Benoit.

Result: Appeal dismissed. No violation of appellants' **Charter** rights or abuse of process. Animals (puppies) in obvious distress. No obligation to provide additional time to appellants to relieve distress. *W.D.* not misapplied by trial judge. No error of law. Verdicts were ones that a properly instructed jury, acting judicially, could reasonably have rendered.

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