

Ikea monkey to stay in sanctuary for holidays

'Darwin is not a dog, he's not a cat, he's not a lizard. He's 93 per cent human DNA'

[CBC News](#)

Posted: Dec 21, 2012 8:56 AM ET

Last Updated: Dec 21, 2012 5:52 PM ET



Darwin made international headlines after the monkey was seen and photographed in the parking lot of an Ikea store in Toronto on Dec. 9, and then placed in an Ontario animal sanctuary. His owner is now fighting to get the monkey back. (Tweeted by Bronwyn Page)

A judge ruled today that Darwin, known worldwide as the Toronto Ikea monkey, will spend the Christmas holidays in an animal sanctuary until a court ruling about his long-term custody is heard in January.

Justice Michael Brown said Friday he felt Darwin would not suffer “irreparable harm” by remaining in an animal sanctuary, and said he prefers “maintaining the status quo until January.”

Brown described Friday’s ruling as a temporary order, and said he may arrive at a different ruling when case returns to court next month.

Darwin's owner Yasmin Nakhuda sat in court crying as her lawyer told the judge that if she can't visit with Darwin at home, she doesn't want to do it at all. Visiting him behind bars would be too stressful for him, she said through her lawyer.

Outside court, Nakhuda was too upset to say much, but her husband urged people to put the case "in a human context."

"Darwin is not a dog, he's not a cat, he's not a lizard. He's 93 per cent human DNA," the husband, who only gave his name as Sam, said, choking up.

"If you go to visit him as a five-year-old child, if you do have a child, how would you feel to see your child behind a cage and be with him outside the cage to say, 'Oh, your mommy and daddy is here...yet you cannot cuddle.'"

That would be too damaging for Darwin, he said.

"I don't know if human beings are capable of understanding this," the husband said. "I don't know if the judge is capable of understanding this."

In his decision, Brown noted the "great affection" both Nakhuda and the sanctuary staff seem to have for Darwin, but reminded everyone that the case is about a monkey, who in law is treated as a piece of property.

"Quite understandably, as with many animals, it is not unusual that such affection, as in this case, is quite profound and real," said Brown, Ontario's central east regional senior justice.

"That being said, it must be remembered that Darwin is not a human being and the rules of our court regarding the custody and access to children do not apply to Darwin."

Nakhuda, had argued in court filings that any protracted separation will do harm to the bond she shares with Darwin.

Toronto owner argues monkey's 'seizure' illegal

Darwin's story first made international headlines after he was spotted wearing a shearling coat while wandering in an Ikea parking lot in north Toronto on Dec. 9.

Staff from the city's animal services department picked up Darwin that day. When Nakhuda went to claim her pet, she was fined \$240 for keeping a prohibited animal.

A statement of claim filed by Nakhuda says the "seizure" of Darwin was illegal, and that she signed ownership of him over to animal services under duress and while being threatened with criminal charges. Those claims have not been proven in court.

Darwin has been living at the Story Book Farm Primate Sanctuary in Sunderland, about 100 kilometres northeast of Toronto.

Nakhuda has argued that Darwin, a Japanese macaque not yet a year old, requires her constant care, but the sanctuary has said he is doing well in his new environment and that it's in his best interest for him to remain there.

Friday's ruling means he will remain at the sanctuary until the case resumes in the new year.

The next court hearing is set for Jan. 31, with the next day also set aside in case it runs long.

With files from The Canadian Press