



Ontario judge to reveal decision in Ikea monkey custody case on Friday

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OSHAWA, Ont. - The owner of a monkey found wandering in an Ikea parking lot is set to learn Friday whether she will get to take him home, albeit temporarily, but she didn't leave an Ontario courthouse empty-handed Thursday.

Darwin the Japanese macaque has been residing at a primate sanctuary since he made international headlines with his romp amongst confused furniture shoppers in Toronto earlier this month. After a court hearing Thursday where Yasmin Nakhuda began legal efforts seeking Darwin's return, the sanctuary gave her back his tiny shearling coat that captured so much attention.

Nakhuda left the courthouse clutching the stylish little jacket and said little about the case.

"I just want him to be with us, where he belongs — not for Christmas, forever," she said.

New twists were added Thursday to the unusual story as the lawyer for the Story Book Farm Primate Sanctuary in Sunderland, Ont., hinted at allegations of abuse and revealed the sanctuary owner has been receiving death threats. Nakhuda, flanked by her 11-year-old and 16-year-old sons, appeared surprised to hear Kevin Toyne say there is "more to come" on the issue of animal cruelty.

"There are concerns ... with our clients and their volunteers that things have gone wrong with Darwin while he's been in Ms. Nakhuda's custody and it would not be appropriate to leave the two of them alone," Toyne told the judge.

When asked about the allegation outside court, Nakhuda stopped walking away from reporters and held up the shearling coat.

"Does that look (like) abuse to you?" she asked.

After his Ikea escapade, Darwin was taken by Toronto animal services and then sent to the sanctuary. Nakhuda's lawyer, Ted Charney, argued the animal control officer had no power to seize Darwin, only to issue Nakhuda a ticket, which he did.

Since it's illegal to own a monkey in Toronto, Nakhuda and her family want to move with Darwin to Kawartha Lakes, where it isn't specifically prohibited.

However, Charney told the judge a Kawartha Lakes bylaw official has been reported as saying the municipality would try to enact such a bylaw as soon as possible. Charney argued Nakhuda needs Darwin returned now so the family can set up residence in Kawartha Lakes and be grandfathered under any new bylaw.

He said his client should at least get to take Darwin home on an interim basis until the case is fully argued.

The sanctuary asked the judge to adjourn the case so it has more time to prepare since Nakhuda filed her materials just last Friday. Toyne said the court shouldn't make any decisions about returning Darwin to Nakhuda until it has all the information.

Toyne said he was in contact with an American named Lisa Whiteaker who runs a website called monkeypro.com and refers to herself as the "Monkey Whisperer." She had been in regular email contact with Nakhuda and Toyne said he is hoping to get access to those emails.

"I am told that those documents will be very useful to our clients to undercut a number of key assertions (by Nakhuda)," Toyne said. He cast doubt on Nakhuda's assertion that Darwin was a gift, saying she provided the court with no information about the "mysterious Montreal breeder," not even a name.

The sanctuary offered Nakhuda a 30-minute visit on Tuesday, but with strict conditions, including a police search, chaperoning by sanctuary officials and police, and a ban on physical contact with Darwin.

With such restrictions in place, the visit would not allow Nakhuda and Darwin to bond, her lawyer said, adding it would not be right if the monkey is ultimately returned and by then the bond is lost.

"If property is going to be returned to the plaintiffs the property should be in the same condition," Charney said.

Nakhuda said outside court she is not interested in the proposed closely supervised visit.

"If I had a one-day visitation I'm not taking it because it would be very harmful for Darwin," Nakhuda said. "If he sees me he's going to want to hold on to me."

Charney told the judge Nakhuda and one of her two sons have been suffering from anxiety since Darwin was taken and that the sanctuary has denied her access to the monkey to purposely try to sever the bond between them.

"The longer she goes without seeing Darwin, the more likely Darwin will lose his bond with the family," Charney said. "That's why she's been denied access ... By the time the trial happens, the bond is going to be broken."

The sanctuary says Darwin is doing well in his new environment and it's in his best interest for him to remain there.

"This environment is closer to Darwin's natural habitat and will help Darwin develop as a primate," sanctuary founder and owner Sherri Delaney wrote in an affidavit.

"Based on what I have learned in the media and from my review of her affidavit, I do not believe that Nakhuda has been complying with Ontario's standards of care for primates."

The sanctuary is not the "monkey police," Charney argued. If there is actual abuse suspected the Ontario Society for the Prevention of Cruelty to Animals has the power to lay charges. Charney suggested that the \$15,000 in donations the sanctuary has raised already in Darwin's name is one of the factors why they want to keep him.

Delaney, who is also a Durham Regional Police officer, wrote that she has received "numerous threats" on her life and has hired a private security company to guard the sanctuary.

The judge reserved his decision for one day on whether the monkey should be returned to Nakhuda at least temporarily.