

Darwin the Ikea monkey won't be going home for the holidays, judge rules



Megan O'Toole | Dec 21, 2012 10:52 AM ET | Last Updated: Dec 21, 2012 5:52 PM ET
More from Megan O'Toole | @megan_otoole



Tyler Anderson / National Post Yasmin Nakhuda, whose monkey Darwin was taken away from her after it was found wandering Ikea parking lot, leaves court in Oshawa, Ontario, December 21, 2012. She was denied custody of the monkey.

The glamorous owner of the world-famous Ikea monkey, Yasmin Nakhuda, left court empty-handed and in tears Friday after a Superior Court judge denied her request for interim custody of the tiny primate — but the bizarre legal battle is far from over. In January, the court will hear arguments on the broader fate of Darwin, who captured international attention this month after shoppers found him wandering an Ikea parking lot in a faux-shearling coat. Already, animosity has reached a fever pitch, with Darwin's owner and the sanctuary that now cares for him trading vague allegations of animal cruelty and lax credentials.

“First of all, the sanctuary, do they have a license?” Ms. Nakhuda's husband, who declined to give his name, demanded outside the Oshawa courthouse. “The individual [who runs the sanctuary], is she qualified as a primate keeper?”

Lawyer Kevin Toyne, who represents Story Book Farm Primate Sanctuary and its founder Sherri Delaney, said the sanctuary has applied for a license under a new bylaw enacted by the Township of Brock and its issuance is simply “a formality.” He hit back with allegations of his own, saying the defence is trying to obtain emails between Ms. Nakhuda and a Las Vegas primatologist that may point to animal abuse.

“If those are documents that we can't get voluntarily, then we'll have to seek judicial assistance to be able to get those documents, so that the truth can come out about what happened with Darwin,” Mr. Toyne said.

He would not elaborate on the nature of the alleged abuse, prompting Ms. Nakhuda's lawyer to dismiss his comments as “wild speculation.”

“I don't know anything about these emails, and there's been no evidence whatsoever of abuse,” lawyer Ted Charney noted. Ms. Nakhuda, who was mobbed by media on her way out of court, declined to comment.

“She's not doing well,” Mr. Charney added. “She's very emotionally upset, as is her entire family.”

The National Post later reached Lisa Whiteaker, the Las Vegas primatologist referenced by Mr. Toyne, but she would not disclose the specific nature of her concerns. She did, however, say that young monkeys such as Darwin should be caged, not treated as a human toddler and allowed to roam free in a household setting.

“[Clothing] restricts them from climbing, from swinging, from being a monkey,” Ms. Whiteaker said.



Darren Calabrese/National Post Darwin, the rhesus macaque found at an Ikea in Toronto, plays in a hamper at the Story Book Farm Primate Sanctuary in Sunderland, Ont. on Monday, December 10, 2012.

In his ruling Friday, Justice Michael Brown said he favoured the “status quo” — keeping Darwin at the Story Book sanctuary — until the two sides could deliver more fulsome submissions.

“Darwin is not a human being and [child custody laws] do not apply,” Judge Brown said, adding the affection both parties had for the Japanese macaque appeared “profound and real.”

Judge Brown also highlighted the temporary nature of his decision, saying he may well rule the other way after hearing additional submissions in January. He offered to set terms for visitation, but Ms. Nakhuda declined after the judge ruled out her proposal to take Darwin home on weekends so he could feel “he’s still part of their family.”

The sanctuary proposed in-house visits with strict conditions, including a police presence to account for security concerns arising from the intense public spotlight on the case. In declining that opportunity, Ms. Nakhuda’s lawyer said it would be “very stressful” for Darwin’s “mother figure” to visit him in that context.

“Darwin is not a dog, he’s not a cat, he’s not a lizard,” Ms. Nakhuda’s husband added, his voice breaking. “He’s 93% human DNA... How would you feel to see your child behind a cage and be with him outside the cage?”

National Post
motoole@nationalpost.com