



Judge to Make Decision on Darwin the Monkey

Posted By: Suzette Francis sfrancis@astral.com · 12/20/2012 12:28:00 PM

An Ontario judge has heard arguments on Thursday, that a monkey found wandering an Ikea parking lot should be returned to his owner at least for the holidays.

Yasmin Nakhuda alleges the Japanese macaque named Darwin was illegally taken from her by Toronto animals control officials.

He was moved to the Story Book Farm Primate Sanctuary in Sunderland, and the sanctuary is arguing it's in Darwin's best interest to stay there with other primates.

Nakhuda appeared in court in Oshawa, to try to get Darwin back, but the sanctuary is asking the judge to adjourn the case so they have more time to prepare since Nakhuda filed her materials just last Friday.

Nakhuda's lawyer, Ted Charney, is arguing today that his client should get to take Darwin home on an interim basis until the case is fully argued.

Since it's illegal to own a monkey in Toronto, Nakhuda and her family are willing 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 in to any new bylaw.

The young monkey captured worldwide attention earlier this month when he was spotted wandering in a Toronto Ikea parking lot wearing a tiny shearling coat.

He was taken by animal services, but Charney is arguing the animal control officer had no power to seize Darwin, only to issue Nakhuda a ticket, which he did.

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 Darwin so any bond between them is lost.

"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 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, Charney told the judge.

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

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

The judge's decision is expected to come down on Friday morning.

(w files from the Canadian Press)