

Ikea monkey to stay at sanctuary for now, court rules

Judge rules monkey's owner did not prove she would be successful in the upcoming trial, which is the necessary test for her to win interim custody.



BERNARD WEIL / TORONTO STAR

On Thursday, Yasmin Nakhuda's lawyers argued that Toronto Animal Services tricked her into surrendering the monkey after he was caught roaming an Ikea parking lot Dec. 9.

By: [Laura Kane](#) News reporter, Published on Fri Feb 01 2013

Darwin the Ikea monkey will stay at the Story Book Farm primate sanctuary until a custody trial begins, a Superior Court has ruled.

Yasmin Nakhuda, former owner and self-proclaimed "mother" of the Japanese macaque, sat expressionless as Justice Michael Brown read the decision in an Oshawa courtroom Friday.

The judge ruled Nakhuda did not prove she would be successful in the upcoming trial, which is the necessary test for her to win interim custody.

“You’ve just learned that loving is not enough to win a motion,” Nakhuda told a crush of reporters outside the court, her eyes rimmed with tears.



“We’ve gone through a lot, and I guess we’ll go through a lot more.”

She is suing the sanctuary for “illegally detaining” Darwin, and had filed a motion to regain custody of him before the trial, which has no set date yet.

The monkey has been in the sanctuary’s care since Dec. 10, a day after he was captured roaming an Ikea parking lot. Nakhuda fears the bond between them will be broken if they are separated for more than four months.

Brown said he would recommend the trial judge set a date in May, six months since the monkey was seized. Nakhuda has refused to visit Darwin because she believes it will cause him separation anxiety.

The judge said he was not convinced Nakhuda would win the trial because of “credibility issues.” He did not elaborate, but the defence has attacked her credibility by pointing out discrepancies in her stories and alleging she abused Darwin.

Nakhuda’s lawyer, Ted Charney, said he was not concerned about the upcoming trial, pointing out the threshold to regain custody is “very high.”

“I’ve never had a trial in which credibility wasn’t an issue,” he said. “It’s Yasmin’s word against the two animal control officers about what happened that day.”

Nakhuda has said that [animal control officers “tricked” her into signing a surrender form](#). Animal control officer David Behan testified he simply told her the pet was illegal in Toronto.

Meanwhile, defence lawyer Kevin Toyne has uncovered [emails from Nakhuda to an animal trainer in the U.S.](#) shortly after acquiring Darwin. She described the badly behaved infant monkey as a “time bomb” and, at one point, considered dropping him off at an animal shelter.

Brown said his ruling doesn't necessarily mean she won't win her lawsuit, or that those credibility issues will be "fatal" to the case.

Sanctuary president Sherri Delaney said the decision was a relief. "Now we know we'll have him until at least May, and we'll see what happens at trial."

She added Darwin is thriving at the sanctuary, where he is transitioning to less interaction with humans and more with other monkeys.

For now, all Nakhuda can do is wait. Asked if she'll keep fighting for Darwin, she said: "I don't know about fighting, but I will keep loving him."