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Ontario judge reserves decision in Ikea monkey custody case until 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 earlier this month. After a court hearing Thursday, the sanctuary returned to Yasmin Nakhuda the tiny shearling coat that captured so much attention.

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

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

Nakhuda dismissed suggestions from the sanctuary's lawyer that she be allowed to see Darwin in a 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."

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

Toyne implied that he had come across information not favourable to Nakhuda's case, but has not yet had the opportunity to gather all the evidence and examine witnesses. There is "more to come" on the issue of animal cruelty, he said.

"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 abuse 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. 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.