

**FILED**

**DEC 19 2013**

**IN THE CIRCUIT COURT OF FRANKLIN COUNTY, MISSOURI**

**DIVISION V**

BILL D. MILLER, Circuit Clerk  
FRANKLIN COUNTY MISSOURI  
By \_\_\_\_\_ D.C.

IN RE: SEARCH WARRANT FOR )  
1317 PARKWAY DRIVE ) CAUSE NO. 13AB-MC01040  
ST. CLAIR, MO )

**JUDGMENT**

Now on this 17<sup>th</sup> day of December, 2013, this matter comes on for disposition hearing pursuant to Section 578.018 RSMo. The State is represented by Franklin County Prosecuting Attorney Robert Parks. Respondent, Velma Muessemeyer, is present in person and by counsel, Taylor Goodale and Brandon Bardot. Evidence is adduced and the Court takes the matter under advisement.

Having considered the evidence, the Court now renders its judgment.

Before addressing the merits, the Court takes up two preliminary issues. Respondent asserts that Section 578.018 violated the Missouri and United States Constitutions. The Court hereby finds that said statute is not unconstitutional.

Second, Respondent asserts that Section 578.007(8) exempts farm animals from the provisions of Sections 578.005 through 578.023 inclusive, further asserting that the animals seized from Respondent are farm animals as defined by Section 578.005(5). Assuming that Mrs. Muessemeyer's animals are farm animals, the exemption only extends to farm animals which are being cared for in accordance with normal or accepted practices of animal husbandry. To assume a blanket exemption would result in the anomaly of all treatment of farm animals, no matter how abusive or neglectful, being beyond the reach of state sanction.

The rabbits, goats and chickens seized from Mrs. Muessemeyer are farm animals. The dogs, cats and duck are not. The questions with respect to the farm animals is whether Respondent's care for and treatment of the farm animals falls within "normal or accepted practices of animal husbandry".

The Court heard live testimony from Sheriff's Detective Hotsenpiller, Brian Thomas of the Humane Society, Doctors Beisswenger, Wright and Brinker on behalf of the State, and Ervin Busse and Joyce Brown on behalf of Respondent. In addition, the Court considered the deposition testimony of Dr. Jim Foster and various items of documentary evidence, primarily photographic evidence.

The State's evidence tended to show that Mrs. Muessemeyer's property is very unkempt. If the issue were the propriety of taking children into custody based on the condition of the property, there is no question in the Court's mind that the condition of the property, especially the house, justifies such action. The issue is not neglect of children however, it is neglect of animals.

The State's evidence showed that the rabbit cages were numerous and not in pristine condition, some even being rusty and at least one with loose wires in an upper corner. The State's experts opined generally that there was indication of neglect. When examined about individual animals, the evidence established that some of the animals were underweight and/or ill, but there was no evidence that the vast majority of the animals were in danger. Doctor Foster, in his deposition, testified that he based his conclusions primarily on the documentary evidence furnished him, including pictures and the reports of Doctors Beisswenger, Wright and Brinker. He concluded that Respondent's practices did, in fact, comport with the appropriate customs and practices. In addition, Mr. Busse (who admittedly has not raised rabbits in quite some time and does not keep up with animal husbandry literature) testified that Mrs. Muessemeyer's methods comported with the standards he, himself followed when he was in the business of raising rabbits.

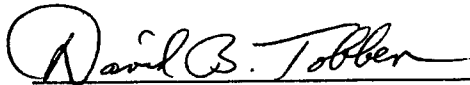
Based upon the foregoing, the Court finds that the State has failed to show that the rabbits were not being cared for so as to remove them from the exemption of Section 578.007.

With respect to the goats and chickens, the Court reaches the same conclusion.

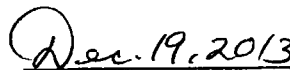
There was no credible evidence that the dogs or cats have been neglected .

Therefore, it is Ordered, Adjudged and Decreed that the animals seized on November 12, 2013, with the exception of those that have died or have been euthanized, shall be returned to Respondent.

So Ordered.



David B. Tobben, Judge



Date