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WHY WASN'T THERE A CONVICTION?

Companion Animal Protection Society's Undercover Investigation Convicts USDA Licensed National Dog Breeder & Broker Kathy Bauck in Minnesota of 4 Misdemeanors, Jury Dismisses 2 Felony Charges

(Boston, MA) – The Companion Animal Protection Society (CAPS) is extremely disappointed that the jury for the trial of Kathy Bauck, the owner and operator of Pick of the Litter (aka Puppies on Wheels) in New York Mills, Minnesota, did not find Bauck guilty of two felony charges. However, based on the laws of Minnesota, we understand why they arrived at their decision.

Minnesota statute 343.20, sub. 6 defines pet or companion animal: "Pet or companion animal" includes any animal owned, possessed by, cared for, or controlled by a person for the present or future enjoyment of that person or another as a pet or companion, or any stray pet or stray companion animal. Nothing in this statute indicates that dogs are livestock, but Bauck's defense attorney raised the argument that the dogs that were shown in the video taken by the CAPS investigator were her "**breeding stock**" dogs. As such, he stated that they **shouldn't be considered pets or companion animals**. The legal argument and interpretation will be up to the judge to decide during the final sentencing.

What makes Minnesota Statute 343.21, *Overworking or Mistreating Animals*, a felony is in the penalty portion in subdivision 9, under subdivision (c) - **having a previous gross misdemeanor on felony conviction** or (d) **the intentional violation that results in the death or great bodily harm of a pet or companion animal**, which the prosecution argued. The other sections of this subdivision did not apply to the Kathy Bauck case.

In Count 3, a torture violation charged as a gross misdemeanor under 343.21, subdivision. 9 (b), the jury had to answer additional questions, including whether or not the animal was a pet or companion animal; they

answered "No" to that question. Therefore, this made it more likely that the jury would have found Bauck not guilty of a felony.

For there to be a felony, the defendant's behavior must be **proven intentional**. During the incident documented below, the CAPS investigator was not wearing a hidden camera daily because of security precautions. Without video evidence for the first felony count, it was hard for the jury to determine if there was intentional behavior by Bauck. This incident was documented by the CAPS investigator in field notes and a report:

5/5/08: I worked from about 8:30 to 17:30 today. I began chores in the puppy barns, and I found that a Bichon on the eastern row of the western room of the Red Barn was having puppies. One puppy, that appeared to be partially flattened, was dead on the pen flooring while a live puppy was hanging from an umbilical cord from the mother. I told this to Kathy, who told me to bring the dog to her. She injected the mother with calcium sulfate to "aid contractions," and then spent about 15 minutes trying to reach inside to pull a puppy out. She did not wash or sanitize her hands before reaching into the dog's cavity. She brought a puppy out that was not breathing, and blew hard into its mouth and nose before slapping its back repeatedly and very hard. She would then keep blowing air into the puppy and rubbing its chest until the puppy began to breathe shallowly, though it was dead about two hours later. At about that time, Kathy tried again to get another puppy from the Bichon, and she got the help of Corinne and Andy. The three women alternated using two pairs of surgical clamps that they grabbed the puppy with inside the mother. Kathy tore the tail off of the puppy, and all three women kept pulling tufts of fur attached to bloody skin, until Kathy pulled a rear leg completely off the puppy. About five minutes later, the puppy came out dead and it was decided that no more puppies were in the mother.

The CAPS investigator's quote: "I observed consistent neglect and abuse at the Bauck family's kennel. Common sense shows that animal cruelty at their kennel will not end as long as they are breeding dogs. The dogs at the kennel have no way to protect themselves, and that fact should be at the core of the decision in sentencing Kathy Bauck."

Regarding the sentencing, anything short of the judge ordering that all of the dogs and cats be removed and Bauck and her family be banned from the practice of breeding is acceptable. The Bauck family should be allowed to keep one pet cat/or one pet dog as long as this companion animal is spayed or neutered. Bauck should also be banned from employment by any person or business that deals in the raising of dogs or cats for profit purposes. See the State of South Dakota vs. Gary Haiar (August 1992) for a similar sentence. Haiar had approximately 400 dogs and was in the process of obtaining a USDA license when found guilty of animal cruelty. CAPS generated publicity about this deplorable facility in Life magazine in September 1992.

USDA regulations should also be amended to require automatic termination of a license upon a conviction for animal cruelty, whether it be a misdemeanor or felony offense. Section 2.11 of the Animal Welfare Act regulations merely states that a license will not be issued to any applicant how has been fined, sentenced to jail or pled nolo contendere under state or local cruelty to animal laws within 1 year of application. USDA is currently reviewing the CAPS evidence. Sadly, however, even if Bauck loses her USDA license and can no longer sell to pet shops, she will still be able to sell over the internet because breeders who sell strictly over the internet are not regulated under federal laws.

Minnesota has no state inspection program but there is legislation currently in front of the state legislature that would ban state licensed kennel operators who have been convicted of animal cruelty from having a license. CAPS supports this legislation, especially because it would apply to internet breeders.

For more information please visit www.caps-web.org or call the Companion Animal Protection Society at 781.210.0938.

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About Companion Animal Protection Society:

Companion Animal Protection Society (CAPS) is the only national nonprofit organization dedicated to protecting companions from cruelty and inhumane breeding practices in Pet Shops and Puppy Mills. Founded in 1992, CAPS actively addresses this issue through undercover investigations, consumer education through the media, legislative involvement, puppy mill dog rescues, consumer assistance and pet shop employee relations. CAPS has gained worldwide recognition for targeting puppy mill operations and converting pet shops to humane animal adoption centers. The Companion Animal Protection Society is based in the Boston, MA area. For more information please visit www.caps-web.org.

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