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Animal cruelty charges dismissed

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Yarmouth Bureau

Digby - A judge has dismissed animal cruelty charges against a Digby County couple.

Gail Benoit, 33, and her common-law spouse Dana Bailey, 39, appeared Thursday in provincial court for the continuation of a new trial ordered after their successful appeal of January 2002 convictions.

But Judge John Nichols determined the Marshelltown couple's rights had been violated so he excluded all of the Crown's evidence.

Judge Nichols did not provide a reason in court for excluding the Crown evidence but will provide written reasons soon.

The violation involved an SPCA officer, a local veterinarian and RCMP going onto the couple's property and seizing three dogs when the couple were not at home, Crown attorney Lloyd Lombard said.

Following their convictions in January 2002, the couple were fined \$1,120 and banned from owning animals for five years. They had been charged under the provincial Animal Cruelty Prevention Act

The dog owners were also ordered to pay the local branch of the SPCA \$1,261 for veterinary bills and housing for the animals.

The couple had paid neither the fine nor the SPCA bill, said their lawyer, Michael Power. All the penalties are now void, Mr. Power said.

An adult dog and two puppies were seized from the couple's yard in November 2000. A veterinarian testified that the emaciated, flea- and worm-ridden animals might have died had they not been removed.

The couple appealed the verdict to Nova Scotia Supreme Court, and last October, that court ordered a new trial.

The trial began this year with the Crown proceeding on charges involving the adult dog only and admitting evidence during a voir dire.

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