

JUSTICE **V.** VERCHER

Case Update

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WHO IS JUSTICE?





Justice (then-named "Shadow"), on Defendant's property in March 2017.



Justice (then-named "Shadow"), on Defendant's property in March 2017.





Justice, Sept. 2018







NOVEL **ISSUES** PRESENTED



- Does a nonhuman animal have legal **capacity** to sue?
- Does a nonhuman animal have **standing** to bring a negligence claim?
- Is a nonhuman animal a legal **person**?
- Is it appropriate for Justice's current caretaker, Kim Mosiman, to serve as his legal **guardian**?
- How does an Oregon trial court handle **novel questions of **common law****?



HOW DID THE LOWER COURT JUDGE **RULE?**



Defendant's Motion to Dismiss is **granted**.

- “This case presents questions of **first impression** in Oregon and perhaps nationally”
- “The court finds that a non-human animal such as Justice **lacks the legal status or qualifications** necessary . . .”
- “Justice is not the **real party in interest**.”
- “There are **profound implications** Such a finding would likely lead to a **flood of lawsuits** . . .”

Defendant's claim for attorney fees is **denied**.

- “[T]here is an **objectively reasonable basis** for the negligence claim asserted by Justice.”



APPEAL



Questions presented:

1. “Does Justice, a nonhuman victim of criminal animal cruelty, possess the **requisite legal status** to pursue a tort claim to recover damages for injuries stemming from the cruelty that he suffered?”

If so:

2. “Did the circuit court err by issuing an order and final judgment granting Defendant Vercher’s motion to dismiss?”



APPEAL



Primary argument regarding legal status:

“[A]nimals, *as beneficiaries of statutory protections*, have **substantive legal rights** to be free from cruelty. And *as victims of crimes*, animals have **procedural legal rights** that can be vindicated through civil actions, including common law claims for negligence per se.”

“These legal rights under the cruelty statute confer on animals a limited form of legal personhood because ‘**where there is a legal right** or duty recognized by criminal law, **so there is a legal person**’ ”

“Thus, nonhuman animals **qualify as legal persons**, . . . insofar as personhood is the legal status required to vindicate one’s rights.”



APPEAL



Primary argument regarding legal status:

- **Nonhuman animals** have statutory protections.
- Statutory protection \Rightarrow legal right
- Legal right \Rightarrow **legal personhood**
- \therefore **Nonhuman animals \Rightarrow legal persons**
(insofar as “personhood” is the legal status required to vindicate one’s rights)



APPEAL



Amicus curiae filing on behalf of Justice:

- **International experts** in equine behavior, physiology, and psychology
- Animal law **professors**



APPEAL



Amicus curiae filing on behalf of Justice:

- **International experts** in equine behavior, physiology, and psychology
 - “Horses are uniquely suited to interact with humans because they are **cognitively sophisticated, emotionally complex, and highly sociable...**”
 - “[These] traits . . . make horses **particularly vulnerable to abuse and suffering** at the hands of their human companions, as happened to Justice.”



APPEAL



Amicus curiae filing on behalf of Justice:

- **Animal law professors**
 - “A **civil suit** on behalf of Justice is an appropriate mechanism for him to obtain compensation for the ongoing medical care required for his injuries.”
 - “[T]he legal relief requested by Justice is modest, entirely in-step with an **emerging jurisprudence of animal law**, and consistent with the best reading of Oregon’s existing law.”



CURRENT STATUS OF APPEAL



- Plaintiff-appellant filed a **notice of appeal** on January 22, 2019.
- Appellant's **opening brief** was filed on July 8.
- Appellee's **response brief** is due November 5.



QUESTIONS?



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**ANIMAL LEGAL
DEFENSE FUND**

