



Woman gets her horses back; all charges dismissed

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After more than three years of legal proceedings, officials have returned to Carolyn Nance all but two of the 16 horses seized from her when officials accused her of mistreating the animals.

And the Rowan County District Attorney's office agreed to dismiss all charges against Nance.

Nance told a Post reporter Thursday that late last year she got back four of the six horses that a District Court judge had ordered her to forfeit. She got the animals back after the N.C. Court of Appeals ruled that Rowan County Animal Control's seizure of the horses violated Nance's Fourth Amendment rights.

Now "the horses are doing real well," Nance said, though she wouldn't say where she's keeping them. "They're all fat and sassy, and they look wonderful."

"In view of the Court of Appeals' opinion, we had some major concerns with how we could proceed with a trial," Rowan County District Attorney Bill Kenerly said. So he and his staff decided to dismiss the charges.

"There was a possibility that none of the evidence (gathered) after the horses were seized would be admissible."

The Attorney General's office, on Kenerly's behalf, had asked the N.C. Supreme Court to consider the case and overrule the appeals court.

But the Supreme Court declined to review the case.

Late in 1998, Rowan County Animal Control officers saw what they believed were several horses in poor condition in a field at Nance's home.

A supervisor decided that the horses needed immediate treatment and seized the animals without a search warrant. Nance did not consent.

Initially, Animal Control officers seized 16 horses from land Nance leased on Old **Mocksville** Road.

In January 1999, Judge Ted Blanton convicted Nance on six of 16 counts of animal cruelty. The judge sentenced her to one day in jail for each of the six horses. Ten of the original 16 seized horses were returned to her.

Nance appealed the conviction and went to trial in Superior Court.

After a trial in September 2000, a jury convicted Nance on six counts of misdemeanor animal cruelty. A judge sentenced her to 18 months of supervised probation and ordered her to forfeit the six seized horses.

Nance again appealed, saying the seizure of the horses violated her Fourth Amendment rights against "unreasonable" search and seizure.

"These people didn't contact me or ask any questions" before seizing the horses, she said this past week. "Sometimes you have to ask questions to find out things. That's what an investigation is."

In April 2002, the N.C. Court of Appeals agreed and threw out the convictions, saying the Animal Control officers unlawfully seized the horses. Attorneys for the state argued the horses were found in an open field that was a public place.

In the unanimous opinion, "we disagree on all points" with the state's reasoning, wrote Judge Patricia Timmons-Goodson. "The fact that the defendant's property included open fields does not transform private property into public fields."

The opinion stated photographs of the horses taken before the seizure would be admissible in court.

Shortly after the Court of Appeals decision, Nance said the District Attorney's office called and offered to return three horses and keep the remaining three, which the officers said were in the worst shape when seized. But Nance declined at that time, she said.

Her attorney, Noell Tin of Charlotte, eventually talked her into agreeing with the state's offer to return four horses, Nance said.

"The horses' lives were being used up," Nance said. "It took some rather than something happening to them."

In the end, "we have both lost in this," she said. "I feel like maybe it's been a learning experience for everybody."