

Cause Number 15-12-15475

The State of Texas]	In the 506 th
]	
vs.]	District Court of
]	
Kathie Digilio]	Waller County, Texas

State's Motion to Release Property for Seizure Hearing

Comes now the State of Texas by and through its Assistant District Attorney in Waller County, Texas and would respectfully ask this Honorable Court to release all horses seized pursuant to a search warrant signed by this court on July 9, 2015 and returned executed on July 13, 2015. The Waller County District Attorney's Office has seized 34 horses from the Defendant in this case and they are being housed at various locations by volunteers who provide food, shelter, care, and veterinary services at their own costs and that this is constituting a burden on these citizen volunteers. The District Attorney's Office therefore requests that the Court allow the release of the animals for a seizure hearing pursuant to Texas law.

The State would further show the Court the following:

1. That the defendant is the subject of a criminal complaint filed on December 8, 2015 against her for felony Animal Cruelty arising out of the search of her property on July 9, 2015 which is pending in this Honorable Court.
2. That it is alleged that the defendant owns property in Waller County, Texas wherein she maintains a herd of free roaming horses that are, for all practical purposes, maintained by her alone and that these animals number somewhere between 30 and 50 animals depending on a variety of conditions.
3. That the land upon which these animals are maintained is unsuitable for grazing purposes and is prone to massive infections of salmonella and other contagious and debilitating conditions.
4. That the defendant has improperly cared for these animals resulting in continuous fights, injuries, disease, and starvation.
5. That the neighbors have complained to law enforcement and others about the conditions of the horses and the fact that her poorly maintained property does not contain the animals.
6. That Texas A & M Large Animal Clinical Sciences staff consisting of a panel of experts evaluated the defendant's property on June 1, 2015 and generally found that after substantial rains and plant growth at that time, that the 42 horses were in reasonable shape but that the defendant is essentially unable to care for the animals and that her practices with the horses represent a significant danger to the animals.
7. That the weather became much drier after this on site inspection and that neighbor complaints about the horses reached a crescendo in July where neighbors alleged that animals on her property may have died.
8. That based on these complaints, this office presented an affidavit for a search warrant to this Honorable Court and that this Honorable Court found probable cause to

- believe that the animals were in danger thereby authorizing this office to seize the animals as evidence under the Code of Criminal Procedure.
9. That the search warrant was executed on July 9, 2015 resulting in the seizure of 34 horses from the defendant's property which are now the subject of this motion.
 10. That a veterinary expert analyzed the horses on that date and found the conditions to be deplorable with several horses in horrible condition and three horses close to death indicating that when the weather dried up after the last inspection, the condition of the herd deteriorated rapidly.
 11. That the defendant herself lives in disgusting conditions indicating that she was at the time unable to even care for herself, let alone a herd of horses.
 12. That the defendant is unable to properly care for these animals and that a return to her would result in further suffering and complaints from neighbors.
 13. That allowing for a return of these animals to the defendant or people of her choosing may result in them being repatriated to her or being sent off for slaughter.
 14. That a volunteer group called True Blue Animal Rescue has been caring for these animals without cost to the taxpayers since the seizure and that this group is suffering a hardship as a result of feeding these horses, taking care of them, providing veterinary care, etc. but they report that the animals have improved significantly in their care since being seized from the defendant (although one horse passed away in what they describe as a freak accident).
 15. That the only practical method provided for seizure is to release the animals for a hearing in a Waller County Justice of the Peace Court pursuant to Section 821.022 Health and Safety Code.

The State of Texas respectfully moves that this Honorable Court release possession of the horses as evidence and allow the Waller County District Attorney's Office to present its evidence to a Justice of the Peace, namely the Honorable Judge C. Karisch, Justice of the Peace Precinct One in Hempstead as required under the Health and Safety Code.

The aforesaid motion has been filed on the 23 day of February, 2016.



Warren Diepraam
First Assistant District Attorney
Waller County, Texas

Certificate of Service:

A true and correct copy of this motion has been served upon the defense by email, filing with the Waller County District Clerk's Office, and via uploading to Document Management to which the defense has unlimited access except for work product and other protected information.