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It's official: Letting your horse roam is reckless

By Peter Hall, Of The Morning Call

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So now we know: Letting your horse roam a Pennsylvania highway is criminally reckless. advertisement

That word came down Thursday from the state Superior Court in a Cumberland County case where a woman was sentenced to a year of probation after her horse escaped its paddock twice in one day before being struck by a vehicle.

Judge Jack A. Panella, writing for a three-judge panel, said the fact Dora Vogel song had previously been warned about her horse wandering freely proved she ignored the danger it posed to motorists.

Although the law is well-settled that the mere possibility of causing harm to another person is enough to prove reckless endangerment, it is apparently the first time the court has examined how it applies to horse owners who allow their animals to roam.

Experts on animal law say the decision is in line with a tendency to hold animal owners strictly responsible for their animals.

"If you own an animal that is capable of inflicting pain, injury or somehow disrupting society, you're responsible to constrain it," said Perkasi e attorney Thomas Newell, who represents people attacked by dogs.

Newell noted the state Supreme Court in February upheld a similar Superior Court opinion allowing dog owners who let their animals run free to be charged with a crime regardless of whether they intended to do so.

The fact that Vogel song was warned once about her horse wandering on the road gave authorities an opening to charge her with the crime, Allentown criminal defense attorney Gavin Holihan said. But, he noted, recklessness, which falls somewhere between a mistake and a intentional harm, is difficult to define.

"It sounds to me like a borderline prosecution," Holihan said.

The Cumberland County district attorney's office and Vogel song's defense attorney did not return calls Thursday.

According to the Superior Court opinion, Silver Spring Township police officer David Jenkins said he was called to King Road about 3 a.m. on Nov. 19, 2012 to check on a horse that was in the road.

Jenkins knocked on doors in the neighborhood to identify who owned the horse and determined Vogel song was the owner. Another officer returned the horse to Vogel song's property and told her to make sure it didn't get loose again.

Later that day on his next shift, Jenkins received a call about a motorist striking a horse and drove to the scene. He determined the horse was Vogelsong's and went to her home where he told her he was investigating an incident involving her horse.

When Jenkins reminded her she had been warned that the horse posed a danger if it was allowed to roam freely, Vogelsong replied: "Just shoot the [expletive] horse and take me to jail," the opinion says.

Vogelsong was charged and found not guilty of cruelty to animals and driving without a license, but she was convicted of recklessly endangering another person. On appeal, her attorney argued that allowing a horse to wander on a highway constitutes mere negligence.

But Panella wrote that the court opinions Vogelsong's attorney cited, dating back to 1915, held that the owner of a horse should be aware of the danger posed by allowing it to wander on a highway. The fact that police warned Vogelsong is proof she was aware, said Panella, a former Northampton County judge.

"The fact that the horse was again on the busy roadway later the same day was sufficient to establish that she consciously disregarded the risk by failing to restrain the horse," Panella wrote.

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