

JUN. 28, 2000

1:38PM

OMNI SCRIPT SERVICES

7

Proceedings

1 the time of the seizure of the horses, that I
2 should exercise my discretion and grant a stay.
3 Again, while it is highly suspicious as to
4 how those TV crews happened to arrive there, the
5 S.P.C.A. officers denied that they tipped them
6 off. There is no evidence that they did, and it
7 is possible that the TV crew comes upon this
8 scene in a number of ways, including listening to
9 radio transmissions, things of that nature.
10 Maybe they do have somebody that works in the
11 office, maybe they get a tip somewhere. There
12 are all sorts of reasons how that may occur. It
13 might have been the person who made the complaint
14 originally who decided that the television
15 cameras should be there. And as I say, it is
16 suspicious. I have my suspicions, but there is
17 no proof of that and I am not going to take the
18 extra step of finding that the TV cameras were
19 there at the invitation of the S.P.C.A. and I
20 therefore cannot find that necessary bad faith.
21 That is why I have decided to exclude evidence as
22 opposed to enter a stay of proceedings.
23 So, having now dismissed the abuse of
24 process argument, that leaves us with, it seems
25 to me, a decision on the merits, based on the
26 evidence that is left.

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28 (SUBMISSIONS BY COUNSEL)

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30 THE COURT: Okay. Well, all of the evidence of any
31 veterinarian inspection after the seizure is out.
32 I will not consider that. All the photographs of
33 the horses taken after, being fed, etcetera, I am
34 not going to consider those photographs. I have
35 seen them, but I have to disabuse my mind of them
36 and not consider them. And any evidence of the
37 S.P.C.A. officers about the condition of the
38 horses after the seizure, everything that happens
39 after the seizure is out.

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41 (SUBMISSIONS BY COUNSEL)

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43 THE COURT: Well, I think they entered the property
44 before they got the search warrant, as I recall.
45 They entered the property, which I believe they
46 have the right to do where they find the animal
47 in distress, without a search warrant. They