

State v. Nix (355 Ore. 777)
Oregon Supreme Court (2015)

Facts:

- Police, acting on a tip, discovered dozens of emaciated animals, mostly horses and goats, along with several animal carcasses on defendant's farm. Defendant owned the animals.
- Defendant was indicted on 23 counts of first-degree animal neglect, and 70 counts of second-degree animal neglect. Each separate count identified a different animal and charged negligent conduct by defendant toward that animal.
- Oregon's anti-merger statute provides that when a defendant is found guilty of committing multiple crimes during a single criminal episode, those guilty verdicts merge into a single conviction, unless subject to an exception.
- One of those exceptions is ORS 161.067(2) which provides that "when the same conduct or criminal episode, though violating only one statutory provision, involves two or more victims, there are as many separately punishable offenses as there are victims."

Procedural History:

- Jury convicted defendant of 20 counts of second-degree animal neglect.
- State asked the trial court to impose 20 separate convictions because the jury had found defendant guilty of neglecting 20 different animals. Trial court disagreed and merged the guilty verdicts into a single conviction. Trial court said that the animals "are not the victims under the definition of the statute requiring that to be persons," thus defendant could not be convicted of multiple crimes.
- State appealed and the Court of Appeals agreed with them, reversing the merger of all of the convictions. They held that because the relevant statute indicates legislative concern with the protection of animals' well being and "reflects a broader public interest in protecting individual animals as sentient beings," that animals are victims under the relevant criminal statute.

Issue:

- Are the animals the victims of the crime of animal cruelty, or is it the state and/or the animal's owner?

Holding:

- Court held that the animals were the victims of the crime and that as such defendant should face punishment for the 20 separate charges on which he was convicted.

Reasoning:

- As the issue before the Oregon Supreme Court is one of statutory construction, they start out by looking at the plain meaning of the word “victim”. They look at the dictionary definition which uses the phrase “living being” when defining victim, which seems to indicate that it is not limited solely to human beings.
- They go through many illustrative examples of the plain meaning of “victim” being used to refer to animals, some as far back as the mid-nineteenth century.
- Having established that the common, plain meaning of victims can definitely include animals, the Court looks for anything in the statute at issue that suggests that the legislature meant something different. They find nothing in the words of the animal cruelty statute or in the legislative history of the statute that indicates that “victim” cannot refer to animals.
- This court’s prior cases (*Glaspey*, 337 Ore. 558) have held that when it comes to construing the term “victim” under the anti-merger statute, its meaning derives from the underlying substantive criminal statute that defendant has been found to have violated. The question becomes under this type of analysis “who suffers the harm that is an element of the offence.”
- Court says that the “phrasing of the offense reveals that the legislature focus was the treatment of individual animals, not harm to the public generally or harm to the owners of the animals.” The offense is committed by failing to provide the required care to animals regardless of who owns the animal. In addition, second-degree animal neglect is a part of a larger, more comprehensive set of offenses concerning the care of animals, offences that are structured to correspond to the extent of an animal’s suffering. So the offence is committed against the animal and the relative seriousness is gauged by the relative degree of harm to the animal. It is clear that the animal is the one “who suffers the harm that is an element of the offence.”
- Aspects of the punishments for animal neglect confirm that the legislature’s focus was on the suffering of the individual animals. For example the court may order the forfeiture of a defendant’s rights in the animal, and it may further order that the rights be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal.
- In summation, the current comprehensive scheme of animal cruelty laws in Oregon are all predicated on preventing the suffering of animals. Public harm is not an element of the offence of second-degree animal neglect. Harm to the individual animal is.