

Note from the lawyer in monkey ARMANI case.

Please advise the REX-folks as follows:

1. Ownership v. Custody (Possession): On or about August 14, 2007, the trial court recognized Elyse as Armani's sole legal owner, even though he was in the County's legal custody (possession) at the zoo. Elyse's ownership right was the reason the court granted her petition to visit Armani. Specifically, the court stated that Armani is Elyse's property until the case is over. If Elyse had lost on Dec. 10th, the case would not be over until she had taken all the appeals she was entitled to.

The court issued the following rulings:

A. The County had the initial right to take possession of Armani (Elyse's property) on May 16, 2007 because the County had a search and seizure warrant for Armani. This meant that there was probable cause that Armani was part of a 'crime': "possession of an exotic animal".

B. The County had a right to possess, but not own, Armani as long as the criminal charge for "possession of an exotic animal" was pending against Elyse. In other words, the County could not have sent Armani to Florida because that would have prohibited Elyse from exercising her right to visit her own property.

C. The criminal charge was the only legal justification for the basis for the County possessing Armani. Once the criminal charge was dropped, the County was legally required to return Elyse's property.

D. Because Armani is not 'contraband per Se,' (not a bag of drugs) the County could not own Armani, even though the County could possess him, until the case was completely over with. And, the court went a bit further; at the visitation hearing, the court recognized that Armani and Elyse had a relationship that made her visitation not only a right, but a necessity. This last point is what made this case so interesting.

Best,
Anne