

# Fay appeals case to state Supreme Court

OSSIPEE

Daymond Steer

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Christina Fay, the woman sentenced in Carroll County Superior Court last month after being convicted of 17 counts of animal cruelty, has appealed to the New Hampshire Supreme Court.

After her sentencing came down on June 14 in Carroll Superior, Fay, through attorney Kent Barker of Winer and Bennett of Nashua, told Judge Amy Ignatius she would be appealing to the state Supreme Court. Most of the sentence was stayed.

Fay had a month from sentencing to file the appeal, and the appeal paperwork was filed July 13. The Supreme Court may or may not take the case.

If the high court takes up a case, the appellant has up to 60 days to file a brief.

The briefs are reviewed and the court decides if oral arguments are needed. If not, an order is issued based on the briefs. If oral arguments are held, an opinion or order would be issued up to six months later.

Fay's counsel in the appeal is Theodore M. Lothstein of Lothstein Guerriero PLLC of Concord. The State will be represented by Stephen Fuller of the New Hampshire Attorney General's Office.

The defense team lists 15 questions to be raised on appeal. For example, one question asks: "Did the trial court err in denying a motion to dismiss after a third party, the HSUS, used evidence gathered from Mrs. Fay's residence without the superior court's permission to generate adverse, prejudicial pretrial publicity in violation of her due process rights guaranteed by the Federal and State Constitutions?"

Another asks whether Fay's federal and state rights to confrontation, due process and compulsory process were violated "in light of her inability to (meaningfully) cross-examine Dr. (Kate) Battenfelder as a result of the court's ruling that Dr. Battenfelder may invoke her Fifth Amendment privilege and not answer certain questions?"

Copies of the appeal were distributed to the press by the New Hampshire Judicial Branch Communications Office.

In mid-March, a Superior Court jury found Fay, 60, guilty on all charges. She had a sentencing hearing in May, but several issues remained unresolved. The case wound up in Superior Court after Fay appealed a guilty verdict that followed a bench trial in Ossipee Circuit Court.

Fay was convicted of neglecting roughly 75 Great Danes she owned, withholding water and allowing medical conditions to fester in an atmosphere rife with urine and feces. The Great Danes had been kept in and on the property of her Wolfeboro mansion.

The sentence imposed by Ignatius included 12 months in jail all suspended for five years, fines of \$42,160, restitution to the Humane Society of the United State of about \$1.95 million and restitution to the town of Wolfeboro of \$18,682.