

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

ILENE MAY HOLWEG, ROLLAN JUNIOR  
HOLWEG, BION JAMES McVEIGH, SR.,  
MELISSA RENEE GREGORY, VIRGINIA  
RADEMACHER, ROBERT D. RADEMACHER,  
JACK ROGER JOHNSTON, RANDY LEE  
JOHNSTON, TOM SAMUEL JOHNSTON,  
HENRY WILLIAM McQUEEN, GILBERT LeROY  
WATSON and JAMES ELWOOD REED,

Defendants-Appellees.

UNPUBLISHED  
February 25, 1997

No. 188454; 188826;  
188827; 188828;  
188829; 188830;  
188831; 188832;  
188834; 188835;  
188836; 188837

Ionia Circuit Court

LC No. 95-010234,

95-010235; 95-010236;  
95-010238; 95-010239;  
95-010240; 95-010241;  
95-010242; 95-010243;  
95-010244; 95-010245;  
95-010246

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Before: Reilly, P.J. and MacKenzie, and B.K. Zahra,\* JJ.

PER CURIAM.

Defendants were charged with violating MCL 750.49; MSA 28.244<sup>1</sup> by participating in cockfighting.<sup>2</sup> They moved to dismiss the charges on the ground that the statute did not prohibit cockfighting. The district court denied their motions and, following their preliminary examinations, bound them over for trial. Defendants advanced the same arguments to the circuit court, which initially denied the motion, but on reconsideration, granted it. The prosecutor appeals the dismissal of the charges as of right. We reverse.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Defendants were arrested following a police raid of a cockfight. The issue in this case does not concern the particular facts of the cockfight or the raid. Rather, the issue in this case is purely a question of statutory interpretation, specifically, whether a cock is included in the term “other animal” for the purposes of MCL 750.49; MSA 28.244 as it existed on January 29, 1995, the date defendants allegedly committed the offenses.

The applicable law concerning statutory interpretation was summarized by this Court as follows:

The primary goal of statutory construction is to find and give effect to the Legislature's intent. To ascertain that intent, this Court must first turn to the language contained within the challenged statutory provision. If the language is clear and unambiguous, statutory construction by this Court is precluded. [*People v Vezina*, 217 Mich App 148, 150-151; 550 NW2d 613 (1996) (citations omitted.)]

The pertinent provisions of MCL 750.49; MSA 28.244 stated:

(1) A person who does any of the following is guilty of a felony . . . :

(a) Owns, possesses, keeps, or uses a bull, bear, dog, or other animal for the purpose of fighting or baiting, or as a target to be shot at as a test of skill in marksmanship.

(b) Is a party to or causes the fighting, baiting or shooting of a bull, bear, dog, or other animal as described in subdivision (a).

(c) Rents or otherwise obtains the use of a building, shed, room, yard, ground, or premises for the purposes of fighting, baiting, or shooting an animal described in subdivision (a).

(d) Knowingly permits the use of a building, shed, room, yard, ground, or premises belonging to him or her or under his or her control for any of the purposes described in this section.

(2) A person who is present at a building, shed, room, yard, ground, or premises where preparations are being made for an exhibition described in subsection (1), or a person who is present at an exhibition, knowing that an exhibition is taking place or is about to take place, is guilty of a felony . . . .

Robert D. Rademacher was bound over under subsection (1)(d). All of the other defendants were bound over under subsection (2), which refers to subsection (1). Unlike bulls, bears, and dogs, cocks are not explicitly designated in subsection (1). Thus, the question is whether cocks are included in the term “other animal.”

We conclude that cocks are within the ambit of “other animal” under MCL 750.49; MSA 28.244. For the purpose of that statute, “animal” was defined by MCL 750.56; MSA 28.251:

In the preceding sections of this chapter, the word “animal” or “animals” shall be held to include all brute creatures . . . .

The term “brute creature” is not defined in the MCL 750.49; MSA 28.244 or MCL 750.56; MSA 28.251. Where a statute does not define one of its terms, it is customary to look to the dictionary for a definition. *Vežina, supra* at 151. *Random House College Dictionary: Revised Edition* defines “brute” when used as an adjective as “animal; not human”, and “creature” as “an animal, esp. an animal other than man.” Thus, the Legislature chose to define “animal” broadly for the purposes of proscribing animal baiting and fighting. The term “animal” when defined as “all brute creatures” is not ambiguous. Unquestionably, a cock falls within this broad definition of animal.

Defendants attempt to create an ambiguity in MCL 750.49; MSA 28.244 in two ways. First, they compare the version of the statute as it was applicable at the time of their alleged offenses with the earlier version that was in effect before the statute was amended in 1988.<sup>3</sup> They argue that the deletion of the specific reference to cocks in 1988 indicates that the Legislature intended to legalize cockfighting. Second, they argue that under the principle of *ejusdem generis*,<sup>4</sup> the version of the statute applicable at the time of their alleged offenses is ambiguous because a cock is not similar to the animals specifically identified in the statute, e.g. dog, bull and bear.

We reject defendant’s efforts to use techniques for discerning legislative intent to create an ambiguity where none exists. These approaches to ascertaining legislative intent are appropriately used when the statute as written is ambiguous. However, if the language of the statute is clear and unambiguous, statutory construction by this Court is precluded. *Vežina, supra* at 151. We will not speculate as to the Legislature’s intent when, by the 1988 amendment, it deleted a specific reference to cocks, but left intact the reference to “other animal” and the broad definition of “animal” in MCL 750.56; MSA 28.251. Furthermore, the principle of *ejusdem generis* is not a better guide to the Legislature’s intended meaning of “animal” than the definition that the Legislature itself provided in MCL 750.56; MSA 28.251.

Because MCL 750.49; MSA 28.244, when read in conjunction with MCL 750.56; MSA 28.251 proscribes cockfighting, the circuit court erred when it dismissed the charges against defendants. The order granting defendants’ motion to dismiss is reversed and the case is remanded for further proceedings.

Reversed and remanded. We do not retain jurisdiction.

/s/ Maureen Pulte Reilly  
/s/ Barbara B. MacKenzie  
/s/ Brian K. Zahra

<sup>1</sup> 1995 PA 228, effective January 1, 1996, amended MCL 750.49; MSA 244. Under the amended statute, “animal” is defined as “a vertebrate other than a human.”

<sup>2</sup> Additional charges were brought against three defendants. However, because only the charges brought under MCL 750.49; MSA 28.244 are the subject of this appeal, we will not discuss the additional charges further.

<sup>3</sup> 1988 PA 381 rewrote MCL 750.49; MSA 28.244, which previously stated in part:

(1) A person who owns, possesses, keeps, or uses any bull, bear, dog, cock, or other animal, or fowl, or bird for the purpose of fighting, baiting or as a target to be shot at, as a test of skill in marksmanship; and a person who is a party to or causes any such fighting, baiting, or shooting of any bear, dog, cock, or other animal, or fowl, or bird; and a person who shall rent or otherwise obtain the use of a building, shed, room, yard, ground, or premises for the purpose of fighting, baiting, or shooting any animal, fowl, or bird . . . shall be guilty of a felony . . . .

<sup>4</sup> The doctrine of *ejusdem generis*, provides that where specific words follow general ones, application of the general words is constrained to those things that are similar to the specific words. *People v Douglas (on Remand)*, 191 Mich App 660, 663; 478 NW2d 737 (1991).