

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES GRIFFIN,

Defendant-Appellant.

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UNPUBLISHED  
February 14, 2013

No. 308471  
Ontonagon Circuit Court  
LC No. 11-000018-FH

Before: FITZGERALD, P.J., and METER and M. J. KELLY, JJ.

PER CURIAM.

A jury convicted defendant of failing to provide adequate care for four or more animals but fewer than ten animals, MCL 750.50(4)(c), and the trial court sentenced defendant to serve 40 days in jail and twelve months probation.<sup>1</sup> The trial court also ordered defendant to pay \$5,079.23 for the cost of care of the animals involved in the case. Defendant appeals as of right, arguing that the evidence presented established only that defendant failed to provide adequate care for three animals.<sup>2</sup> We affirm.

MCL 750.50(2)(a) provides that an “owner, possessor, or person having the charge or custody of an animal shall not . . . fail to provide the animal with adequate care.” “Adequate care’ means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health.” 750.50(1)(a). “Sanitary conditions’ means space free from health hazards including excessive animal waste, overcrowding of animals, or other conditions that endanger the animal’s health . . . .” 750.50(1)(i). “State of good health’ means freedom from disease and illness, and in a condition of proper body weight and temperature for the age and species of the animal, unless the animal is undergoing appropriate treatment.” 750.50(1)(k).

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<sup>1</sup> Defendant was charged with failure to provide adequate care to more than ten animals, MCL 750.50(4)(d).

<sup>2</sup> Defendant requests that this Court reverse his conviction and remand for entry of a conviction of failing to provide adequate care to two to three animals, MCL 750.50(4)(b), and for resentencing.

On January 27, 2011, 13 animals were removed from defendant's 1,200 square foot home. The animals included 11 dogs, a rabbit, and a cat. Defendant concedes that he failed to provide adequate care to three of his dogs: Bear, Cloud, and Lacey. He argues that the evidence presented did not support a finding that he failed to provide adequate care to the remainder of his animals and, therefore, that the evidence did not support his conviction of failing to provide adequate care to four or more, but less than ten, animals.<sup>3</sup> We disagree.

In reviewing a challenge to the sufficiency of the evidence, this Court reviews the record de novo and, viewing both the direct and circumstantial evidence in a light most favorable to the prosecution, determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). The reviewing court defers to the fact-finder's weighing of the evidence and assessment of the credibility of the witnesses; credibility issues are not revisited on appeal. *Id.* at 514-515. All conflicts in the evidence must be resolved in favor of the prosecution. *Id.* at 515.

Viewed in the light most favorable to the prosecution, the evidence presented reveals that defendant's home was disheveled and smelled of urine. The floors were littered with dirt, fleas, feces, and roaches. All 11 dogs had extremely long toe nails. All of the animals were visibly flea infested and required deworming. The dogs and the cat had not received adequate veterinary medical attention and needed updated vaccines and other medical treatment. One dog, Neo, was found in a laundry basket with both feces and fleas in the bedding. She was nursing three puppies and did not have access to food or water. Neo was also underweight. Another dog, Scamp, was found in a small room. There was testimony that he had lick granuloma, a condition that results from excessive licking due to stress, boredom, or lack of exercise. Scamp was overweight and likely not given sufficient exercise. His outdoor kennel contained urine and feces. An uncaged rabbit was found locked in a carpeted bathroom with piles of feces that were several inches deep. The cat had to be euthanized immediately because he had both feline AIDS and leukemia. The evidence establishes that at least four of defendant's animals were not provided adequate care in accordance with MCL 750.50(1)(a). Accordingly, the prosecution presented sufficient evidence to allow a rational finder of fact to conclude beyond a reasonable doubt that defendant failed to provide adequate care for more than four, but less than ten, animals.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Patrick M. Meter

/s/ Michael J. Kelly

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<sup>3</sup> Defendant requests that this Court reverse his conviction and remand for entry of a conviction of failing to provide adequate care to two to three animals, MCL 750.50(4)(b), and for resentencing.