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Press Release

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For Immediate Release

**NEW YORK STATE SUPREME COURT JUDGE UPHOLDS
ADMINISTRATIVE CODE STERILIZATION REQUIREMENT FOR DOGS
RELEASED FROM SHELTER SYSTEM**

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New York, July 12, 2002 -- Justice Herbert Kramer of the New York State Supreme Court has upheld the provision of the New York City Administrative Code that every dog and cat that is released by a full-service animal shelter, whether being reclaimed by its prior owner or being adopted by a new owner, be sterilized prior to release. Justice Kramer held that the legal requirement was constitutional and did not violate the principle of equal protection.

The plaintiff's two male Rottweiler dogs were alone in an apartment when a City Marshall executed a warrant of eviction. The dogs were brought for safekeeping to a shelter run by the Center for Animal Care and Control, a non-profit entity that, among other activities, performs animal control functions pursuant to a contract with the City of New York. When the plaintiff attempted to retrieve the dogs, he was told that, pursuant to the Animal Shelters and Sterilization Act of 2000, they had to be neutered before being released. He brought suit in State Supreme Court seeking an order that the dogs be released intact.

Justice Kramer found that there is no equal protection violation in the fact that the Act provides three very narrow exceptions: (1) for animals whose health would be endangered by sterilization, (2) for animals that have a breed ring show record, or (3) for service animals that are bred for their special skills.

The judge found that the distinction between breed ring show animals and other pedigree animals did not violate equal protection. Justice Kramer stated: "So long as a law does not discriminate against suspect classes of people, a court must accord wide latitude to a legislature's judgment as to the circumstances warranting the exercise of a city's police power." Since the plaintiff could not show that there was no rational connection between the provision and the promotion of public safety, the provision to neuter the animals that came into the shelter system was lawful.

The case was handled by Assistant Corporation Counsel Louise Moed of the New York City Law Department's Administrative Law Division. She said, "The City Council hearings that led to the adoption of the Act made it clear that the Act had wide support among animal rights activists as well as veterinarians and other public health professionals. They recognized that controlling the animal population of the City is important in protecting the public health and safety."

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