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**SUPREME COURT OF ARKANSAS**  
No. CR-21-29

KAREN SIEGEL

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered: December 9, 2021

APPEAL FROM THE CRAIGHEAD  
COUNTY CIRCUIT COURT  
[NO. 16]CR-15-1129]

HONORABLE BRENT DAVIS, JUDGE

AFFIRMED IN PART; DISMISSED AS  
MOOT IN PART.

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ROBIN F. WYNNE, Associate Justice

Karen Siegel appeals from an order of the Craighead County Circuit Court that disposed of her motion for the return of seized property. The property at issue in this criminal case consists of thirty-one breeding dogs that were seized from Siegel. She argues on appeal that the circuit court erred by (1) finding that Arkansas Code Annotated sections 5-62-106 (Supp. 2021) and 5-62-111 (Supp. 2021) are not unconstitutional; and (2) not ordering the return of the seized dogs, and by not assigning a value to them and ordering that Siegel be compensated for the property that was destroyed, damaged, or otherwise rendered useless for the intended purpose. We affirm in part and dismiss as moot in part.

In February 2015, the Craighead County Sheriff's Office seized thirty-one dogs belonging to Siegel, who was later found guilty in the district court of thirty-one misdemeanor counts of animal cruelty under Arkansas Code Annotated section 5-62-

103(a)(5) (Repl. 2016). Upon disposition of the case, the district court placed custody of the dogs with the Northeast Arkansas Humane Society, but apparently that organization never had physical possession of the dogs, nor did it exercise control over them. Instead, a volunteer who accompanied officers executing the warrant took the dogs to a veterinary clinic and placed them in various foster homes.

Siegel appealed to the circuit court. On October 4, 2017, the circuit court dismissed the charges on speedy-trial grounds. The State appealed, and this court dismissed the appeal as unauthorized under Rule 3 of the Arkansas Rules of Appellate Procedure–Criminal. *State v. Siegel*, 2018 Ark. 269, 555 S.W.3d 410. On October 16, 2017, after the charges had been dismissed, Siegel filed a motion to have the dogs returned to her. She argued that the thirty-one dogs and all dogs from any litters of the seized dogs should be returned to her, as the matter had been resolved and there was no longer any evidentiary value to them.

In February 2018, while the State’s appeal was pending, the circuit court held a hearing to determine the status of the seized dogs. The evidence included the testimony of Angie Herringer, who had accompanied officers in the seizure of the dogs and placed or helped place them in foster homes, and Michael Glass of Pennsylvania, who testified regarding the value of the dogs. On December 6, 2018, the circuit court entered a detailed order titled “Conditional Order Granting Motion for Return of Seized Property.” The circuit court found that Siegel had kept the thirty-one Schnauzer dogs exclusively for breeding purposes; after the dogs were seized, it was determined that many, if not all, had health problems, including heartworms; three dogs died in 2015 while undergoing necessary

heartworm treatment; and most, if not all, of the remaining dogs had been spayed or neutered and relocated where they had been kept as pets for over three years. The court further found that it would serve no purpose and would be inhumane to return the altered dogs to Siegel after they had been pets for that length of time. The court ordered the Craighead County Sheriff's Office to conduct an investigation to determine the location and status of any seized dogs and to provide a report. The order stated that the court would schedule further hearings if necessary.

Siegel appealed, and this court dismissed the appeal for lack of a final order. *Siegel v. State*, 2020 Ark. 159, 598 S.W.3d 31. On October 1, 2020, the circuit court entered a "Final Order in Regard to Petition for Return of Seized Property." The court adopted its prior order and, pursuant to the sheriff's office investigation, found that only one dog, which had been spayed, had been located—the rest being dead or their whereabouts unknown. The court further found that Siegel was entitled to the return of the seized dogs, and that she "may pursue any claims for damages as set forth in paragraph #6 of page 6 of this Court's Order of December 6, 2018, or pursue other remedies available to her resulting from the loss of the animals resulting from the seizure." The referenced paragraph provided:

In the event any or all of the seized animals are not available to be returned to Defendant, or have been altered to render them of no value to Defendant, Defendant shall be entitled to pursue any civil remedies available to her to recover fair compensation for the value of the property seized and not returned. Due to the complexity of the issues involved in establishing the valuation of any damages for the loss or alteration of the animals and any off-sets for reasonable expenses incurred by the State or others for their reasonable care, a separate action in the civil division of

circuit court will provide a better venue to address the issue of damages in a comprehensive fashion.

This appeal followed.

Siegel contends that the circuit court erred by not ordering the return of the seized property in this case and by not assigning a value to the property and ordering that Siegel be compensated for the property that was destroyed, damaged, or otherwise rendered useless for the intended purpose. She cites the procedure set out in Arkansas Code Annotated section 5-62-106, Disposition of Animal, which provides in pertinent part:

(a)(1) Unless otherwise ordered by a court, for purposes of this subchapter, an animal that has been seized by a law enforcement officer or animal control officer under this subchapter shall remain at the appropriate place of custody for a period of at least fifteen (15) consecutive days, including weekends and holidays, after written notice is received by the owner.

(2) The written notice shall:

(A) Be left at the last known address of the owner; and

(B) Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

(3) If the owner of the animal cannot be determined, . . .

(4)(A) After written notice is received by the owner or published under subdivision (a)(3) of this section, the owner within fifteen (15) business days may petition the district court having jurisdiction where the animal was seized to determine the custody of the animal.

(B) If a petition is not filed by the owner within the time period prescribed by this section, the prosecuting attorney shall file a petition in the district court to divest the owner of ownership of the animal and, after a hearing, the district court may order the animal transferred to an appropriate place of custody, euthanized, or any other disposition the district court deems appropriate.

(b)(1)(A) When an owner files a petition under subsection (a) of this section and the district court determines that the owner shall be divested of custody of the animal, the district court shall order the owner of the animal to post a bond with the district court in an amount the district court determines is sufficient to care for the animal for at least thirty (30) days.

(B) The bond shall not prevent the appropriate place of custody from disposing of the animal at the end of the thirty-day period covered by the bond, unless a person claiming an interest in the animal posts a new bond for an amount determined by the court for an additional thirty-day period.

....

(c)(1) A diseased or injured animal:

(A) Seized under this section may be appropriately treated for injury or disease without a court order; and

(B) Is subject to being euthanized without a court order when it is determined by a licensed veterinarian that euthanizing is necessary to prevent the suffering of the animal.

(2)(A) Except as provided in subdivision (c)(1) of this section, an appropriate place of custody shall not alter or modify an animal in any manner, including without limitation the neutering, spaying, or castration of the animal, without:

(i) A written court order that is issued after a petition is filed by the prosecuting attorney requesting alteration or modification and a hearing involving all interested parties as set forth in subsection (a) of this section; or

(ii) The written consent of the owner.

(B) A violation of this subsection is a Class B misdemeanor.

(d)(1) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or equine, § 5-62-104, and if that person is also the owner of the animal subject to the offense, the court shall divest the person of ownership of the animal, and the court shall either:

(A) Order the animal given to an appropriate place of custody;

(B) Order the animal euthanized if the court decides that the best interests of the animal or that the public health and safety would be best served by euthanizing the animal based on the sworn testimony of a licensed veterinarian or animal control officer; or

(C) Make any other disposition the court deems appropriate.

(2) If a person pleads guilty or nolo contendere to or is found guilty of either the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or equine, § 5-62-104, and the person is not the owner of the animal subject to the offense, the court shall order that the animal be returned to the owner, if practicable . . . [.]

....

(e) The court shall order an animal seized under this section returned to the owner if the owner:

(1) Filed a petition under subsection (a) of this section;

(2) Paid all reasonable expenses incurred in caring for the animal; *and*

(3) Is found not guilty of the offense of cruelty to animals, § 5-62-103, or the offense of aggravated cruelty to a dog, cat, or equine, § 5-62-104, or *the proceedings against the owner have otherwise terminated.*

(f) An owner of an animal that has been seized under this subchapter shall be responsible only for reasonable expenses that were incurred for the care of the animal while the animal was in the appropriate place of custody.

....

(Emphasis added.) Siegel also cites Arkansas Rule of Criminal Procedure 15.2, which provides: “In all cases of seizure the law enforcement officer making the seizure shall provide for the appropriate safekeeping on the things seized.” Siegel argues that law enforcement did not provide appropriate safekeeping of the dogs and that the circuit court should have determined the damages for all the dogs and ordered Craighead County to pay her compensation.

Siegel’s arguments on this point are not persuasive. First, the statute contemplates relatively quick action by the district court to determine custody of seized animals upon the petition of either the owner or the prosecuting attorney. Ark. Code Ann. § 5-62-106(a)(4).

Here, the district court eventually placed custody of the dogs with the Northeast Arkansas Humane Society, but the dogs remained scattered in foster homes and that organization did not take any action regarding the dogs. When Siegel filed her motion in circuit court to have the dogs returned to her, over two years had elapsed since the dogs had been seized. A final order was not entered until over five years after the seizure. There is no indication that Siegel posted a bond for the care of the dogs as contemplated by the statute. In sum, the procedures set out in section 5-62-106 were not followed. Furthermore, the statute does not provide for an award of damages to a defendant. Siegel argues in her brief that the circuit court should have determined damages and ordered that compensation for the damages be paid to her by Craighead County. But the county is not a party in this criminal action brought by the State against Karen Siegel. Arkansas law is long settled that service of valid process is necessary to give a court jurisdiction over a defendant. *State v. West*, 2014 Ark. 174, at 4. Here, the county was not made a defendant and the circuit court was without jurisdiction to provide the relief Siegel sought. The circuit court was correct in stating that Siegel's available remedy was a separate action in the civil division of circuit court or some other remedy. Accordingly, we affirm on this point.

In addition, Siegel argues that the circuit court erred by finding that Arkansas Code Annotated sections 5-62-106 and 5-62-111 are not unconstitutional. She argues that section 5-62-106 is unconstitutional because it violates the following: the right to due process, both facially and as applied; article 2, section 13 of the Arkansas Constitution (judicial remedy for wrongs); the right to a jury trial; the right to confront and cross-examine witnesses; and the

separation-of-powers doctrine. In addition, she challenges the constitutionality of Arkansas Code Annotated section 5-62-111, Prevention of Cruelty, on the grounds that it allows illegal entry onto private property and is vague and overbroad. We decline to reach these constitutional arguments because they are moot. Generally, a case becomes moot when any judgment rendered would have no practical legal effect upon a then-existing legal controversy. *Allison v. Lee Cty. Election Comm'n*, 359 Ark. 388, 198 S.W.3d 113 (2004). As a general rule, the appellate courts of this state will not review issues that are moot. *Id.* To do so would be to render advisory opinions, which we will not do. *Id.* This court has recognized two exceptions to the mootness doctrine. *Id.* The first one involves issues that are capable of repetition, but that evade review, and the second one concerns issues that raise considerations of substantial public interest which, if addressed, would prevent future litigation. *Id.* Neither exception applies here. The constitutionality of the challenged statutes can be determined in another case.

Affirmed in part; dismissed as moot in part.

Special Justice JULIE LINCK joins.

KEMP, C.J., not participating.

*Hancock Law Firm*, by: *Charles D. Hancock*, for appellant.

*Leslie Rutledge*, Att'y Gen., by: *Jason Michael Johnson*, Ass't Att'y Gen., for appellee.