

## **BSL defeated in US historic court ruling**

BREED SPECIFIC Legislation was dealt a savage blow last week in an historic victory for American campaigners when the Supreme Court in Alabama ruled that there was no genetic evidence that one breed of dog was more dangerous than another, simply because of its breed.

Around the world, anti-BSL campaigners are rejoicing at the ruling that drew on evidence provided by genuine canine experts, which was favoured by the judges over subjective evidence, put forward by veterinarians and politicians. The court ruling and the evidence used may now be legitimately used to fight BSL in other countries such as Germany and Australia, as well as other US States. In the UK, the 1991 Dangerous Dogs Act could possibly be open to a direct legal challenge in the same way.

### **Shelter**

The action in Alabama was brought by the Washington Animal Foundation (WAF) against the city of Huntsville, which had claimed that American Pit Bull Terriers were 'genetically dangerous'.

The case centred on four pit bulls held in an animal shelter and adopted by three local women. The dogs were survivors of a group of over 50 pit bulls seized in a raid on a dog-fighting ring in April 2000. Half of the dogs died from injuries or disease, whilst the remainder –including four puppies - were held at the City pound and put up for adoption.

Sheila Tack, an emergency room nurse at Crestwood Hospital, adopted two of the puppies that she named Justice and Elizabeth. Whilst they remained impounded, she visited them twice a week.

The other puppies, David and Nellie, were adopted by Kay Nagel, a military officer's wife and resident of Redstone Arsenal, and Loyce Fisher, a civil service worker from Cullman.

However, the City Council refused to release the dogs, stating that they were a potential danger to human beings, although none had apparently displayed any aggression.

The matter was referred to court for a legal decision on the dogs' fate. During a hearing last year, lawyers representing the city, Michael Fees and Greg Burgess, told Madison County Circuit Judge Joe Battle the animals were vicious and should not be rehomed.

The women, who did not have a lawyer, argued the animals were never trained to fight and conditioning can suppress any vicious tendencies the

dogs might have.

Judge Battle agreed and on Nov 13 2001, declared the four young pit bulls were not dangerous because they were never trained to fight. The court allowed the city to destroy 21 adult pit bulls which had been used for fighting.

However, the City appealed Battle's ruling to the Alabama Supreme Court and asked the court for an order preventing the women from taking custody of the dogs.

At this point, Seattle-based WAF became involved in the case and appointed Huntsville lawyer Mike Seibert to fight their case, based on evidence they gathered to counter the City lawyer's claims that all Pit Bulls were 'genetically dangerous'.

## **Happy**

The foundation hired veterinarian Dr. Alan Jones of Hazel Green to examine the dogs. But the officers at the shelter do not allow anyone to have physical contact with the pit bulls, even vet Jones.

"They looked fat and happy," he said. "They seemed starved for attention and not aggressive at all"

Glen Bui, spokesman for WAF told a local newspaper that the dogs should be released.

"I believe that the City of Huntsville is wasting thousands of taxpayers' dollars attempting to destroy innocent dogs that were already given by the circuit court to the three women," he said.

WAF filed an Amicus (third party) submitting genetic proof that Pit Bulls are not dangerous.

The city of Huntsville were backed by the extremist animal rights organisation PETA that Pit Bulls were genetically dangerous, with evidence provided by veterinarians, none of whom was an expert in any specific canine or genetical field.

WAF cited case laws under Due Process of the law, and stated that it was unconstitutional to rule a specific breed of dog as 'dangerous' in this way. They also claimed it was 'genocide' to try to eradicate the pit bull breed.

WAF submitted evidence to the Supreme Court that they were able to provide:

1. Identification of expert treatises regarding the genetics of the breed in

question

2. Testing and studies regarding genetics verses environment as the catalyst for a specific dog breed's aggression

3. Social contributions made by the American Pit Bull Terrier (i.e. as Assistance Dogs, Search and Rescue Dogs etc.)

4. The association's brief assisted the court as it had substantial knowledge concerning the issue before the court

5. The briefs filed by the City were insufficient to adequately address the far reaching issues involving genetic breed bias

6. The Foundation read all briefs and believed that innocent pet owners and innocent pets were not represented by either brief.

### **Deadline**

WAF co-founder Glen Bui told OUR DOGS this week: "The court granted WAF's petition and allowed us seven days to file amicus curiae (disinterested adviser). Myself along with Attorney Mike Seibert worked on the amicus long hours into the night, while WAF members Kay Nagel and Sheila Tack proofread and added input. It was finished with less than one hour before the deadline to file and Sheila raced to the US post office and sent it certified mail.

"Huntsville's entire case rested on affidavits from veterinarians claiming they examined the four pit bull pups and that they would pose a danger to the community because pit bulls are genetically dangerous. They also claimed the women had no legal right to adopt the pups, this was also addressed in the amicus brief."

On Friday, August 30, the Supreme Court ruled 7-2 in WAF's favour and ordered that the dogs should be released for adoption, accepting the evidence but forward by WAF that no breed of dog is genetically dangerous. "This is fantastic news," said Bui. "The city could appeal against the ruling, but I'd like to think they'll give way and release the dogs to their new owners so that they can enjoy a good life. Two of them will be trained as Search and Rescue Dogs; the other two will become pets. The pit bulls have been evaluated and temperament tested before they are released, they are being spayed and neutered. The city did tell the media that the dogs would be released, so let's hope they keep their word."

### **Genetic**

Bui also told OUR DOGS this week: "For years the American Pit Bull Terrier has been alleged to be dangerous because of its genetics. Never has WAF

found any genetic research proving that. When we were asked by three Huntsville women for help, they told us nobody else would help them, they had contacted everyone who fights BSL. We knew the women had to face the Supreme Court and this was a very serious case. We knew we had the genetic proof that no breed of dog is dangerous.

"We knew we also had statistics which proved the APBT has one of the best temperaments out of 185 dog breeds along with a strong legal defence. Being aware that never in the past had anyone ever argued the point, after contemplating the outcome if the women lost, I decided to bring WAF into the case, on the last day before the deadline for filing briefs in the Supreme Court WAF petitioned for Amicus Curiae.

"This case set a standard for future cases concerning BSL and genetics. We put several years of research into genetics and due process. We will use the statistics in Ohio; we have received assistance from state agencies in Ohio to investigate the Lucas County Dog Warden rulings on BSL in that State, as Ohio is totally BSL-controlled. Dog owners in Ohio really could use support right now. "It was a long battle and now we have proved the American Pit Bull terrier is not genetically dangerous."