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Animal rights, circus lawyers differ on elephants

Animal rights advocates, circus lawyers wrap up trial over elephant handling by Ringling Bros.

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WASHINGTON (AP) -- Animal rights activists and Ringling Bros. argued in court Wednesday over the use of metal-tipped prods and chains to control elephants, offering their closing arguments to a federal judge who expressed reservations about regulating circus acts.

U.S. District Judge Emmet Sullivan finished hearing a six-week trial over whether elephant handling techniques used by the Ringling Bros. and Barnum & Bailey Circus violates the Endangered Species Act.

Attorney Katherine Meyer, arguing for the animal rights groups, asked the judge to stop the circus from harming the elephants during performances and punishing them for bad behavior. She said she hoped the case would "give voice to these magnificent animals" who are beaten with prods and spend most of their days tethered on chains.

"For nine minutes of performing, these elephants live a life of misery," she said.

Feld Entertainment, which owns the circus, argues the animals are not hurt and that the instruments are necessary to keep the pachyderms under control and protect public safety.

There was no jury, so Sullivan alone will decide the outcome. The judge expressed some reluctance to police circus techniques and asked how the prods and chains are different from spurs used on horses and whips with tigers.

"Where does all this start and stop?" Sullivan asked. "I mean, I don't think federal judges should be regulating all the acts of the circus."

Ringling Bros. argues it cannot have elephants without these instruments because there is no other proven way to keep the animals under control and protect their trainers and the viewing public.

Feld's attorneys say their 54 elephants are healthy, alert and well-cared for, including the 19 that travel with the show and 35 that live at the company's 200-acre conservatory in Florida.

Some of the elephants at the center of the case were coincidentally just a few blocks from the courthouse, preparing for weekend performances at Washington's Verizon Center.

Meyer showed the court videos of trainers striking the elephants in the legs, trunk and ears with the metal-tipped prod, called a "bullhook" by the activists and a "guide" by the circus. She held up a prod in court, swinging it over her head as she recalled testimony about elephants who had been hit suffering puncture wounds that could sometimes develop into infected boils.

She also told how elephants are chained for hours in trains or on concrete at the conservation center, leading to arthritis, cracks in their nail beds that can cause abscesses and bed sores like patients in nursing homes.

Defense lawyer John Simpson argued that elephant skin is thick enough that the prod doesn't cause harm like it would to a human. He showed a documentary of elephants in the wild with bleeding fly bites next to pictures of bleeding hook marks taken by animal activists. He said the injuries appeared the same, and he compared a boil to nothing more than a pimple.

Sullivan showed concern with the elephant's conditions, suggesting that the way that elephants reacted to the prods suggested they were afraid they were going to be hit and hurt. Simpson replied that Ringling doesn't use fear or pain to train elephants but accepted techniques of negative reinforcement and punishment.

"I'm not denying there's a mild sensation" from a prod, he said. "What I am denying is there's a sensation of pain."

The judge said he was surprised to hear a defense expert testify that train travel satisfies elephant's nomadic urges. Simpson replied by comparing the chains used to restrain elephants on the train to a seat belt that a person would put on to go on a trip.

"The average person doesn't have to sit in their own feces," Sullivan responded.

"Unless you are wearing an astronaut diaper, that's true," Simpson said to laughter in the packed courtroom, then argued that handlers keep the box cars clean.

Sullivan asked whether the circus couldn't shorten the 26 consecutive hours, on average, that the elephants are kept chained on trains while traveling to each event by providing recreation breaks. Simpson said the circus could not control the train schedule. Sullivan then asked whether there should be a regional or stationary circus. Simpson replied that there has been a stationary circus, but it failed because people want to see the show in their own town, a more affordable experience.

Under questioning from the judge, Meyer acknowledged that not all use of chains and prods would violate the law. She said she hopes that he will require the circus to get permits from the U.S. Fish and Wildlife Service to use the tools. But she could not say specifically what treatment should be allowed or just how long elephants could legally be kept on chains.

Sullivan also questioned the credibility of a former Ringling elephant handler, Tom Rider, who is a plaintiff in the case and was in the courtroom along with Feld Entertainment CEO Kenneth Feld. Rider is essential to the case -- the lawsuit would not be valid without a person who can claim an injury, and Rider gave that standing because he says it hurt him to see the elephants he knew and loved abused.

Sullivan expressed concern about inconsistencies in Rider's testimony, including the fact that Rider used a prod himself after leaving Ringling and joining a European circus. The judge also pointed out that Rider had not paid taxes on funds he received from the animal rights activists over the years, although he eventually settled the issue with the IRS.

Meyer responded that Rider is an unsophisticated man with a high school-equivalency degree, yet he has devoted his life to spreading the word about elephant abuse, living out of his Volkswagen van to follow the circus route.

Both sides agreed to submit their final briefs next month. The judge said he would hold a final hearing in late May or early June, meaning his ruling wouldn't come until the summer. "It's never too late to settle a case," Sullivan reminded them, but both sides said an agreement in the fierce debate would be unlikely.

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