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Opinion No. 08-124

Definition of "Depraved and Sadistic" as it Relates to Aggravated Animal Cruelty

QUESTION

What is the definition of "depraved and sadistic" as it relates to aggravated animal cruelty under Tenn. Code Ann. § 39-14-212(b)(1)?

OPINION

The terms "depraved and sadistic" are not defined in Tenn. Code Ann. § 39-14-212(b)(1) or elsewhere in the statutory scheme. Therefore, one must look to the plain language of the statute and apply the ordinary meaning of the words.

ANALYSIS

Aggravated cruelty to animals is committed when, "with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal." Tenn. Code Ann. § 39-14-212(a). Aggravated cruelty is defined as, "conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal. . . " Tenn. Code Ann. § 39-14-212(b)(1). Aggravated cruelty to animals is a Class E felony. Tenn. Code Ann. § 39-14-212(d). The statute does not define what constitutes "depraved and sadistic;" however, it is a basic rule of statutory construction that, when construing or interpreting statutes, courts must "ascertain and carry out the legislature's intent without unduly restricting or expanding a statute beyond its intended scope." *Lavin v. Jordan*, 16 S.W.3d 362, 365 (Tenn. 2000). In so doing, courts "examine the 'natural and ordinary meaning of the language used, without a forced or subtle construction that would limit or extend the meaning of the language.' Where the language of the statute is clear and unambiguous, . . . [courts] will give effect to the statute according to the plain meaning of its terms." *Id*. at 365 (citations omitted). "Depraved" has been defined as "morally corrupt; perverted." "Sadistic" has been defined as "deriving of sexual gratification or the tendency to derive sexual gratification from inflicting pain or emotional abuse on others; deriving

of pleasure, or the tendency to derive pleasure, from cruelty; extreme cruelty." *American Heritage Dictionary*, 4th Edition (2000).

In order to violate the statute with respect to aggravated cruelty, a person must intentionally torture or maim an animal by engaging in conduct in a morally corrupt or perverted manner or by deriving pleasure or sexual gratification from inflicting pain or cruelty on an animal.[1] In a criminal prosecution under § 39-14-212, it would be the duty of the fact-finder to determine whether the defendant's actions were carried out in a "depraved and sadistic" manner.

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[1]Sexual offenses against animals are prohibited and punished by Tenn. Code Ann. § 39-14-214.