

# Snakes In A Box

August 28, 2009

Volume 8, Number 23

## Guess What You Signed Up For

*By Brian Beasley, More Scared of Spiders Than Snakes and Legal Adviser, High Point PD*

Breaking news from the AP wire!

Dateline:<sup>1</sup> Duluth, Minnesota.

*A Minnesota man has pleaded guilty to driving his motorized La-Z-Boy chair while drunk. A criminal complaint said 62-year-old Dennis LeRoy<sup>2</sup> Anderson told police he left a bar in the northern Minnesota town of Proctor on his chair after drinking eight or nine beers.<sup>3</sup> Prosecutors say Anderson's blood alcohol content was 0.29, more than three times the legal limit, when he crashed into a parked vehicle in August 2008. He was not seriously injured.<sup>4</sup> Police said the chair was powered by a converted lawnmower and had a stereo and cup holders.<sup>5</sup>*

*Sixth Judicial District Judge Heather Sweetland stayed 180 days of jail time Monday and ordered two years of probation for Anderson. His attorney, David Keegan, did not immediately return a call for comment.*

For some reason this story did not get the media coverage given to the "Balloon Boy Saga," so I wanted to make sure that you were aware of it. Since that's out of the way, let's get down to some serious legal business.

I have often spoke of my admiration for police officers and the tough job that they have to carry out. It is often pointed out that you deal with most civilians when they are at their worst. I am certain that some days you briefly wonder why you wanted to be a police officer in the first

---

<sup>1</sup> Isn't it odd that the term "dateline" is used for where the story is reported from instead of when? It used to refer to both when and where, but now the date is usually omitted from wire reports.

<sup>2</sup> Interesting that the "r" is capitalized in Mr. Anderson's middle name. Does this mean the emphasis goes on the second syllable? I think if you are driving a motorized La-Z-Boy down the street and into your favorite bar, your middle name has to be pronounced LEE-roy instead of la-ROY.

<sup>3</sup> I wonder if the drinkers of Proctor, MN thought this guy was crazy or thought he was the coolest guy ever as he drove his recliner into the bar. I'm guessing the latter and I'll also speculate that this guy never had to pay for a beer. I mean – he drove his chair into the bar!

<sup>4</sup> Of course he wasn't seriously injured – he was in a padded recliner! Who needs airbags when you are in a soft padded chair?

<sup>5</sup> Before you get any ideas, you could also be charged with DWI in North Carolina if you drive a lawnmower down the street while subject to an impairing substance, whether or not you have converted it into a La-Z-Boy.

## ROLL CALL TRAINING

*From North Carolina's 24/7 Police Attorney Law Firm*

PO Box 4803

Greensboro, NC 27404-4803

Telephone (336) 691-7058

fax (336) 969-1879

[www.policehelp.net](http://www.policehelp.net)

place. You may have the same doubts after hearing about some changes to your duties under the state laws dealing with venomous reptiles, large constricting snakes, and crocodilians.<sup>6</sup>

In new G.S. 14-416, the legislature states that the “intentional or negligent exposure of other human beings to unsafe contact with venomous reptiles, large constricting snakes, or crocodilians is essentially dangerous and injurious and detrimental to public health, safety and welfare.” This may be the most logical and accurate thing said by the North Carolina General Assembly in quite some time. Keep this section in mind because we will be referring back to it in just a moment.

The next several sections of this law regulate the ownership or use of venomous reptiles, large constricting snakes,<sup>7</sup> and crocodilians.<sup>8</sup> For instance, these creatures must be housed in a sturdy and secure enclosure designed to be escape-proof, bite-proof, and have an operable lock. Further, a written safety protocol and an “escape recovery plan”<sup>9</sup> must be within sight of permanent housing for the creature. For venomous reptiles, the enclosure must be clearly and visibly labeled “Venomous Reptile Inside” and have a written bite protocol that includes emergency contact information and the name and location of suitable antivenom.<sup>10</sup> But here’s the good part: in the event that any of these creatures escape from their escape-proof enclosure, the law states that “the owner or possessor shall immediately notify local law enforcement.”<sup>11</sup>

Even better, let’s look at G.S. 14-419, entitled “Investigation of suspected violations; seizure and examination of reptiles; disposition of reptiles.”<sup>12</sup> It reads thusly: “In any case in which any law enforcement officer has probable cause to believe that any of the provisions of this Article have been or are about to be violated, it shall be the duty of the officer . . . to seize the reptile or reptiles involved, and the officer is . . . directed to deliver: (i) a reptile believed to be venomous to the North Carolina State Museum of Natural Sciences . . . and (ii) a reptile believed to be a large constricting snake or crocodilian to the North Carolina Zoological Park.”<sup>13</sup> (emphasis added)

Now, as your tactical police attorney, I was compassionate to your plight and started thinking of ways to help you undertake this legal obligation. I will point out that it is a long held Constitutional principle that the application of deadly force by a police officer is in fact a seizure

---

<sup>6</sup> “Crocodilians” is a fantastic word! I wish I had come up with it myself, but I have to give credit to the state legislature. They included it in the new law discussed in this update. By the way, the new law specifically excludes the American alligator from the crocodilians being regulated. I don’t know why.

<sup>7</sup> G.S. 14-471.1 states that “large constricting snakes” mean the Reticulated Python, the Burmese Python, the African Rock Python, the Amethystine Python, and the Green Anaconda or any of their subspecies or hybrids. The Monty Python is conspicuously absent. Note that I don’t believe that the snake has to actually be large in size – if it is one of these species, it is considered a large constricting snake for purposes of this statute.

<sup>8</sup> Not including the American alligator. Again, I don’t know why.

<sup>9</sup> This is not defined in the statute, but I would imagine an escape recovery plan would be centered around either “Upon escape, please catch the creature and return him/her/it to his/her/its cage” or “RUN FOR YOUR LIVES!” Regardless of the particular plan, I am going to do the latter without apology.

<sup>10</sup> I am not making this up.

<sup>11</sup> These are the calls that Watch Commanders live for. I generally advise you to contact your police attorney whenever you need to, but DO NOT call your police attorney in this situation. I can’t help you here.

<sup>12</sup> Not necessarily in that order.

<sup>13</sup> Now go back and read the paragraph where the legislature talks about how “unsafe,” “essentially dangerous,” “injurious,” and “detrimental to public health, safety, and welfare” these creatures are. This same legislature has given you the privilege of seizing these creatures and taking them to Raleigh or Asheboro.

under the Fourth Amendment.<sup>14</sup> Therefore, you would in fact be “seizing” the creature by killing it. But before you take that drastic step, please consider actually attempting to deliver the creature as instructed by the statute.<sup>15</sup> Once you deliver the creature, the scientists will determine if the creature is in fact a venomous reptile, a large constricting snake, or a crocodilian. If they determine that the creature does not fit into one of those categories, the statute states that “it shall be the duty of the law enforcement officer to return the reptile or reptiles to the person from whom they were seized within 15 days.”<sup>16</sup>

You should know that a violation of any of the provisions of this law<sup>17</sup> is a Class 2 misdemeanor. If a person other than the owner, the owner’s agent, employee, or a member of the owner’s family suffers a life threatening injury or is killed as a result of a violation, the owner is guilty of a Class A1 misdemeanor.<sup>18</sup> Any person who intentionally releases one of these creatures is guilty of a Class A1 misdemeanor. And finally, violations of this law will subject the owner to punitive damages<sup>19</sup> in civil court.

Now that you know how important it is to keep those snakes and crocodilians safely secured, let me leave you with yet another breaking news update:

Dateline: Janesville, Wisconsin

*A suspected would-be robber walked into the wrong bar. The teen entered Quotes Bar and Grill in Janesville, in southern Wisconsin, Sunday night. He had a bandanna covering his face and his hand was in his pants as if he had a gun, WREX News reported.*

*What the young man apparently didn't know was that a police golf tournament had brought officers from across Wisconsin to Janesville. Several cops were gathered at the bar, and when they saw the teen, they didn't hesitate.*

*"I heard someone yell, 'You gotta be kidding me' from this end of the bar," bartender Joe Collins told WREX. "I turned around in time to see them grab a masked man and put him down to the ground."*

*The man, identified as 18-year-old Alonzo Rucker, did not have a weapon. He was arrested on disorderly conduct charges. According to WREX, Rucker said he did not intend to rob the bar and was only wearing a mask so no one would recognize him.*

---

<sup>14</sup> See, for example, *Tennessee v. Garner*, 471 U.S. 1 (1985). Actually the use of any force, deadly or not, is a seizure under the Fourth Amendment, which is why we have rules and policies and General Orders that govern it.

<sup>15</sup> TASER International, Inc. has requested that I tell you the following: “When TASING a venomous snake or crocodilian, please target the area below the chest while being careful to avoid the genitalia.” Okay – I made that up, but it sounds like something they might say. On a complete tangent, I’m getting Microsoft Word’s wavy line thingy under genitalia. Usually when I want to check the spelling of a word, I type it into Google, but fortunately I stopped before I “googled genitalia” and brought up a bunch of websites that would have been difficult to explain. I have since learned that the correct spelling is genitalia. Now back to your regularly scheduled programming.

<sup>16</sup> But just think how much more pleasant the return trip will be now that you know that the snake is not venomous or liable to squeeze the life out of you.

<sup>17</sup> For instance, letting your crocodilian escape and run amok. That has been the downfall of many promising careers.

<sup>18</sup> With some exceptions set out in the statute for unavoidable or unpreventable escapes or thefts from the owner.

<sup>19</sup> Punitive damages is where the money is at. It was punitive damages that got \$2.7 million for the woman who burned herself by spilling a hot cup of McDonald’s coffee in her lap. By the way, this award was reduced to \$640,000 and settled for an undisclosed amount while on appeal.

Now there's a defense that only a lawyer could love!

**ABOUT THE AUTHOR: Brian Beasley is the Legal Advisor for the High Point Police Department. This legal update is provided free of charge to the SR&S Webpage in the hopes that officers across the state would be able to benefit from it. Brian is not an attorney with Smith, Rodgers, & Strickland, PLLC but he thinks they're pretty cool guys.**



**Smith, Rodgers & Strickland PLLC**

*provides 24-hour real-time legal support for client law enforcement agencies.*

“The materials on this website are instructional only, and do not constitute legal advice or create an attorney-client relationship. Readers should consult in-house counsel or city/county attorneys for advice and guidance on specific legal issues and applications. Clients of SR&S may of course contact the firm’s 24-hour switchboard for immediate legal consultation in real-time.”