

July 30, 2020

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
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REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file nos. **V20010678 and V20010679**

BRUCE MCBRIDE AND TIMOTHY RAVEN

Animal Services Enforcement Appeal

Activity no.: A20011471

Appellants: **Bruce McBride and Timothy Raven**

Bellevue, WA 98006

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
Regional Animal Services of King County
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FINDINGS AND CONCLUSIONS:

Overview

1. Timothy (Milton) Raven's four dogs—two under his initial control and two under his friend Bruce McBride's initial control—participated in a brutal attack on May 1. Regional Animal Services of King County (Animal Services) cited Mr. Raven and Mr. McBride for a variety of violations. They each appealed. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and

the relevant law, we uphold ten of the twelve violations. Because we do not find there was anything irresponsible about Mr. Raven's and Mr. McBride's actions either before, during, or after the attack, we significantly reduce the monetary penalties.

Testimony and Evidence

2. To set the stage, Mr. Raven submitted a depiction of the Idylwood parking lot and the layout of the vehicles on May 1. Ex. D17 at 009. Mr. Raven and his friend, Bruce McBride, were in the parking lot. Mr. Raven was leashing up his four dogs for a walk in the park. He handed the leashes holding Achsah and Elijah to Mr. McBride. Mr. Raven turned and unhitched Cooper and Esther's leashes from the truck. Marissa Dana pulled into another parking spot and let her two dogs, including Molly, out of her vehicle.
3. Kathy Ewing was in the parking lot, packing up her car to leave. She heard barking, which at first sounded normal. Suddenly the barking escalated, and she looked up and saw several large dogs. What stuck out in her mind most about the event was an owner deftly trying to hold onto his dogs as they went after something. It was not clear if she was talking about Mr. McBride or Mr. Raven, but she recalled the man trying valiantly, but unsuccessfully, to hold his dogs back as they pulled him towards the grass. She then took out her camera and started recording. It got gruesome when one of the dog's bit and held onto a small dog's (Molly's) hindquarters. The incident "seemed to go on forever."
4. Ms. Ewing testified that after Molly eventually got away, Molly took off like a shot, running into Ms. Ewing's open car door. Molly moved from the back seat to the front seat, and then stayed put in the car. The owner of one of the large dogs told her to call 911, which she thought was really nice of him. Ms. Ewing did not see Ms. Dana get bit.
5. Daryl Storey was at her desk in her home across the street from the park. She observed a man walking two big dogs. She saw a little dog (either Molly or Ms. Dana's other dog) jump out of Ms. Dana's vehicle just as the two dogs were going past. She cautioned that from her vantage point she could not say who approached who. The fight started near the front of the car.
6. Ms. Storey's impression was that the big dogs were being handled correctly, and that the altercation was a matter of unfortunate timing and circumstances. She did not see anything that looked like dogs not in control. She thought the big dogs were all on their leashes as they were fighting.
7. Ms. Dana explained that she did not have Molly or her other dog on leashes before she let them out of the car because the leashes can tangle them up. Her dogs are trained to wait by the door until she gets out leashes on them. She testified that her dogs stayed by her car door that day. One of Mr. Raven's dogs came up and growled, but then ran away. Molly growled. Mr. Raven was holding his two dog's leashes until he got dragged to the ground. Another dog grabbed Molly and shook her for 10 to 20 minutes. At one point, one of the dogs had Molly by the ear while the other two had her by her hindquarters. Ms. Dana was bitten herself and dragged to the ground. Ex. D9.

8. Ms. Dana described another guy (McBride) as standing by the car not trying to help. When Molly was set free, she fled and jumped in a car (Ms. Ewing's) and did not return. Molly was bloody all over and stayed in the veterinarian's office for eight days. The veterinarian gave Molly a 50 percent chance of survival. (The photos of Molly's wounds are gruesome. Ex. D7.) Molly survived, but has had severe behavioral problems since; if another dog comes by, Molly goes into attack mode. She reports that between Molly's veterinarian bills and her own medical costs, she has incurred \$25,000 in expenses.
9. Mr. McBride explained that the incident started after Mr. Raven handed him Achsah and Elijah on their leashes. Ms. Dana's dogs jumped out of the car, ran behind the back of her car, and started barking, getting maybe three feet past the back of the car and into the parking lot. Achsah and Elijah pulled on him, dragging him maybe halfway between the cars before they toppled him to the ground. After he bit the blacktop, everything went south, and his memory after that point is kind of a blur. Ex. D4 (Mr. McBride's visible bruises).
10. Mr. Raven testified that Ms. Dana's dogs were barking and ran to the back of her car. Her dogs were still moving towards Achsah, one of them getting within three to five feet of Achsah, when Achsah turned and went after them. After he saw Mr. McBride getting yanked, Mr. Raven ran immediately into the fray, with a leashed Cooper and Elijah. In hindsight, bringing Cooper and Elijah into the mix was a bad idea. But in the moment, he was focused on stopping Achsah. He got a hold of Achsah's leash and handed it to Mr. McBride.
11. Esther was the dog that bit Ms. Dana's leg. Mr. Raven did not recall Cooper participating in the attack, although he has since seen Ms. Ewing's video. Mr. Raven put down his three other dogs himself. The dogs were his family, and only Cooper remains alive. He expressed sorrow at Molly and Ms. Dana's suffering. He found Ms. Dana "courageous."
12. Ms. Ewing's video is perhaps the most upsetting video evidence we have yet entertained. Ex. D6. It picks up after the attack started. It begins with Mr. McBride holding Achsah off to the side, with Mr. Raven on the ground fighting desperately to get Esther and Elijah to release Molly. Cooper is not as engaged and Esther and Elijah, but Cooper nonetheless gets some bites in. Mr. Raven keeps screaming, "Oh my God." He repeatedly tells approaching bystanders to, "Do what you have to do," meaning to take any necessary measures against his dogs to end the attack. Mr. Raven and others get Elijah and Cooper off and restrained, but Esther will just not let go of Molly. Eventually, Mr. Raven and others are able to get Esther to release Molly, and Molly runs away. At that point, Ms. Ewing stops filming.

Issues

13. Animal Services asserts that all four dogs were running-in-packs, vicious, and lacked their rabies shots. Because Achsah and Elijah were in Mr. McBride's control at the beginning of the altercation, Animal Services assessed their viciousness and running in packs violations against Mr. McBride. Ex. D12 at 001. Animal Services assessed against Mr. Raven all four vaccination violations, as well as the viciousness and running in packs violations related to Cooper and Esther. Ex. D11 at 001.
14. Mr. Raven did not challenge the rabies vaccination violation. KCC 11.04.520.
15. Appellants challenge the running-in-packs violations, which the code defines as “a group of two or more animals running upon either public or private property not that of its owner in a state which either its control or ownership is in doubt or cannot readily be ascertained and when the animals are not restrained or controlled.” KCC 11.04.020.R, .230.O.
16. Appellants also challenge at least some of the “vicious” designations, which KCC 11.04.020.BB defines as:

Having performed the act of, or having the propensity to do any act, endangering the safety of any person, animal or property of another, including, but not limited to, biting a human being or attacking a human being or domesticated animal without provocation.

KCC 11.04.230.H declares as a nuisance, “Any animal that has exhibited vicious propensities and constitutes a danger to the safety of persons or property off the animal's premises or lawfully on the animal's premises.”
17. In assessing those items, we do not grant substantial weight or otherwise accord deference to agency determinations. Exam. R. XV.F.3. For those matters or issues raised in an appeal statement, Animal Services bears “the burden of proving by a preponderance of the evidence both the violation and the appropriateness of the remedy it has imposed.” KCC 20.22.080.G; .210.

Analysis

18. Of the three participants with a literal dog in the fight (Mr. McBride, Mr. Raven, and Ms. Dana), we found Mr. McBride the most credible on how the incident began. (By Mr. McBride's own admission, his memory after he “bit the pavement” is blurry.) We find that Ms. Dana's dogs did not initially stay right by her door, but instead wandered a little past the back of her car and barked at Achsah and Elijah.
19. That Ms. Dana's dogs started things off does not change the fundamental nature of the altercation. Ours is not the scenario where, say, Molly got close to Achsah and Elijah, and one of them delivered a “back-off” nip. Instead, Achsah and Elijah chased Ms. Dana's dogs back to her car door, and Elijah grabbed a fleeing Molly. Esther and Cooper arrived seconds later and started biting Molly, with Esther also (per Mr. Raven's

testimony) also biting Ms. Dana's leg. Elijah, Esther, and Cooper continued to attack Molly. Even the portion of the attack Ms. Ewing captured lasted one minute, 15 seconds, and that was after the attack was in progress.

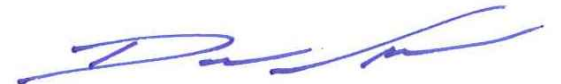
20. The four dogs' reactions were grossly disproportionate to Ms. Dana's dogs' incitement. *Bradacs v. Jacobone*, 244 Mich. App. 263, 273-75, 625 N.W.2d 108, 113 (2001); *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000); *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439, 442 (1995). All four dogs endangered the safety of at least Molly, attacked without legal provocation, and constitute a danger to safety. We sustain all four viciousness designations.
21. As to running in packs, none of Mr. Raven's four dogs were constrained or controlled enough to keep them from going after Molly, and there were two or more of them. However, the code also requires that the dogs be "running." It is accurate to say that Achsah and Elijah ran the few feet between Mr. McBride biting the pavement and dropping the leashes and Ms. Dana's car door, but Cooper and Esther were on a leash until Mr. Raven arrived at the altercation. We uphold the running in packs violation for Achsah and Elijah and reverse it for Cooper and Esther.
22. Turning to the penalty, the dogs participated in one of the more gruesome attacks we have witnessed. The *result* of Mr. Raven and Mr. McBride coming to the park that day was horrific. However, we think the two neutral witnesses, Ms. Ewing and Ms. Storey, summed it up best. What Ms. Ewing remembered most—even beyond the violence—was one of the Appellants deftly and valiantly, although ultimately unsuccessfully, trying to hold his dogs back. Ms. Storey's impression was that the dogs were being handled correctly, and that the altercation was a matter of unfortunate timing and circumstances.
23. Most of the time, in our hundreds and hundreds of dog bite cases, an attack is the product of poor decisions or a failure to take certain precautions. In contrast, Mr. Raven meticulously hooked up and leashed his dogs *before* he untethered them from his truck. It is challenging to see what more he could have done to prepare against and to prevent what actually happened. We found Mr. McBride's and Mr. Raven's testimony that Achsah's decision to chase after another dog, with enough force to pull down Mr. McBride, was not something either of them reasonably could have predicted, based on Achsah's past behavior. The 70-year-old Mr. McBride tried all he could to restrain Achsah and Elijah, until they pulled him to the pavement and released the leashes. A disoriented Mr. McBride got back up and did what he was capable of at that point, namely restraining Achsah.
24. Hindsight is always 20/20, but in the split-second Mr. Raven decided to immediately go after Achsah and Elijah without first taking the extra time to first secure Cooper and Esther in or to his truck, that seemed like the prudent move. And after he arrived at the point of attack, the video shows him on the ground, with his hand in his dogs' mouths and elsewhere, trying desperately to get them to release Molly, and repeatedly telling the good Samaritan responders to do what they had to do (i.e. to harm his dogs if they needed to) to get them off Molly.

25. After the fact, we often see owners exhibit a fair amount of denial and minimization. Mr. Raven did the opposite. It is obvious he loves his dogs greatly and they are his family. Animal Services did not order the dogs euthanized or even removed from the County. Yet Mr. Raven recognized the severity, worried about a repeat performance, and decided that he could not in good conscience own animals that had behaved that way. Ex. D2 at 010 n.17. He shot them himself.¹ Ex. D15. And by putting down his dogs, he eliminated their threat to the public.
26. Mr. Raven should have vaccinated his dogs, or at least retained proof of their vaccination. However, there was nothing irresponsible about Mr. Raven and Mr. McBride's actions either before, during, or after the attack on May 1. We find a significant penalty reduction is in order for both.

DECISION:

1. As to Mr. Raven and V20010678, we sustain the vaccination and viciousness violations and overturn the running-in-packs violations. We reduce the remaining \$1,200 penalty to \$300.
2. As to Mr. McBride and V20010679, we sustain all four violations but reduce the penalty from \$1,100 to \$100.

ORDERED July 30, 2020.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County's final decision for this type of case. This decision shall be final and conclusive unless appealed to superior court by *August 31, 2020*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

¹ Mr. Raven did not shoot Cooper, as at the time he did not recall Cooper participating in the attack. The video shows that Cooper did get in some bites, although Cooper neither started the attack (that was Achsah) nor was he nearly as aggressive a participant as Elijah or Esther. Ex. D6.

**MINUTES OF THE JULY 8, 2020, HEARING IN THE APPEAL OF BRUCE
MCBRIDE AND TIMOTHY RAVEN, REGIONAL ANIMAL SERVICES OF KING
COUNTY FILE NOS. V20010678 and V20010679**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Sergeant Eykel, Timothy Raven, Marisa Dana, Kathy Euling, Daryl Storey, and Bruce McBride. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

The following exhibits were offered and entered into the record by the Department:

Exhibit no. D1	Regional Animal Services of King County staff report to the Hearing Examiner
Exhibit no. D2	RASKC investigation report no. A2001147101
Exhibit no. D3	Redmond Police Department Incident Report no. 20-008237
Exhibit no. D4	Photograph of injury
Exhibit no. D5	Online Complaint form of May 1, 2020 incident by Marisa Dana, dated May 7, 2020
Exhibit no. D6	Video
Exhibit no. D7	Photograph of injured dog
Exhibit no. D8	Bluepearl veterinary notice of admission, dated May 3, 2020
Exhibit no. D9	Photograph of injured leg
Exhibit no. D10	Written statement of Raven Timothy
Exhibit no. D11	Notice of violation no. V20010678, issued May 1, 2020
Exhibit no. D12	Notice of violation no. V20010679, issued May 8, 2020
Exhibit no. D13	Animal quarantine notice, dated May 1, 2020
Exhibit no. D14	Letters and door handing NOV
Exhibit no. D15	Photograph of dead dogs
Exhibit no. D16	Appeal of NOV V20010678, received May 19, 2020
Exhibit no. D17	Appeal of NOV V20010678, received May 19, 2020
Exhibit no. D18	Map of subject area

The following exhibits were offered and entered into the record by the Appellant:

Exhibit no. A1	Email statement from Timothy Raven, submitted July 7, 2020
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DS/jf

July 30, 2020

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file nos. **V20010678 and V20010679**

BRUCE MCBRIDE AND TIMOTHY RAVEN

Animal Services Enforcement Appeal

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED July 30, 2020.



Jessica Oscoy
Legislative Secretary

Dana, Marisa

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Mc Bride/Raven, Bruce/Timothy

Hardcopy