

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

King County Courthouse
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V20010769-A20012136**

ELIZABETH CLEMENT

Animal Services Enforcement Appeal

Activity no.: A20012136

Appellant: **Elizabeth Clement**

[REDACTED]
Auburn, WA 98071

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
Regional Animal Services of King County
21615 64th Avenue S
Kent, WA 98032
Telephone: (206) 263-5968
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FINDINGS AND CONCLUSIONS:

Overview

1. After Elizabeth Clement's dogs were found in King County in violation of a removal order, Animal Services impounded them and served Ms. Clement with a violation notice and with a notice declaring the dogs unredeemable. She appealed. After hearing the witnesses' testimony, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny Ms. Clement's appeal.

Previous Appeals

2. This case has a long backstory, partially summarized in our two previous decisions. Excerpts from those decisions are quoted or condensed in this section.^{1 2}
3. In September 2018, Ms. Clement’s dogs, Thor and Juno, fatally mauled Cannon Jones’ two, 300-plus pound goats. Animal Services declared both dogs vicious, a designation Ms. Clement appealed. After hearing the evidence at our October 2018 hearing, we made the following findings in our November 2018, decision:

Ms. Clement’s dogs were caught in the act of mauling the goats. They remained on the Jones property, still trying to get back at the goats even as the Joneses attempted to scare them off the premises. Animal Services provided pictures of her dogs just outside the Joneses’ interior fence, and Animal Services collared the dogs while still on the Jones property. Ms. Clement personally redeemed her dogs from Animal Services’ control. Yet even after seeing all the exhibits and hearing all the testimony, at points in the hearing she was still claiming it was not her dogs, she was not accepting responsibility, and she was even questioning, for example, whether [one of the goats] had died. It was a perplexing presentation.

It was also ineffective. We are somewhat hardened by seeing dog bite after dog bite photo, but the photos here are perhaps the most horrific we have seen in dozens³ of vicious dog appeals—blood splattered and flesh torn out. Juno and Thor attacked two domesticated animals without provocation and constitute a significant danger. This is among the clearest cut viciousness cases we have gone to hearing on. Animal Services easily meets its burden of proof. KCC 20.22.120.B.

...the nature of the attack—mauling 300-pound goats seriously enough that one died a few days later, and one weeks later—shows this is no ordinary viciousness case. And the prolonged nature of the attack—waiting around, despite the Joneses’ presence and attempts to shoo them away, and repeatedly trying to get back at the goats, shows a level of predatory drive well outside the norm even in viciousness determinations we have upheld.

4. We upheld the viciousness designation, and found no basis to reduce the monetary penalty, reasoning that Ms. Clement agreed her dogs had gotten loose at least a dozen times before the incident and acknowledged they are escape artists. Yet six weeks after the incident she had yet to install the electric fence she purchased. We closed by

¹ https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2018/2018%20november/V18008604_Clement.ashx?la=en

² https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2019/2019%20May-Dec/V19009471_Clement.ashx?la=en

³ That number is now in the triple digits, and the statement remains true.

informing Ms. Clement of her appeal rights, an appeal date, and the pertinent RCW code.

5. Ms. Clement did not appeal. Thus, Animal Services' determination that Thor and Juno were vicious and could be kept in King County only so long as they were (a) secured in a fenced area suitable for their size when unattended and outside the home, with all passages padlocked to prevent accidental release, and (b) restrained in a collar or harness when off the property remained in effect.
6. Yet 2019 brought more. On June 1, Thor and Juno escaped again and trespassed back onto the Jones property. On June 4, neighbor Vangie Solozhuk complained to Animal Services that the dogs who had previously trespassed multiple times were back again. Animal Services came out that day and retrieved Thor and Juno from the Solozhuk property. Ms. Clement confirmed their identity as the trespassers when she personally redeemed Thor and Juno from Animal Services. Thor and Juno were not done; on August 16, they were back on the Jones property. Animal Services issued more violations, and Ms. Clement appealed. We went to hearing in October.
7. In our November 2019 decision, we explained that we are the most exacting of Animal Services on removal orders, given what is at stake, and that we had overturned more removals than we had sustained.⁴ However, we noted that this case presented “the clearest-cut case for removal we have seen in our dozens of removal appeals.”
8. We observe that Ms. Clement had her chances—multiple chances—to secure her dogs. She should have done this soon after Thor and Juno mauled the Jones' goats to death in September 2018. Yet she had still not completely finished the containment system by the time of our October 2019 hearing. We described her extreme denial and indifference to the destruction and trauma Thor and Juno had caused her neighbors as “unconscionable.” Our November 2019 decision upheld the violations and the removal order, but gave Ms. Clement six weeks (versus the 48-hours stated in Animal Services' removal order) to rehome Thor and Juno outside of King County.

Current Appeal

9. This section and the next are drawn from our August 7, 2020, hearing, incorporating the testimony and exhibits.
10. In December 2019, Ms. Clement asked superior court to overturn the 2019 removal order and also the 2018 viciousness determination. She states that that same month she rehomed the dogs with a friend, Ashly Domingo, while she pursued her appeal. Ms. Domingo lives outside of King County. The superior court dismissed Ms. Clement's appeal on May 21, 2020, rendering Juno and Thor's removal from King County final. Ex. D22.
11. However, on June 6, 2020, Ms. Domingo brought the dogs back into King County and back to Ms. Clement's, to let Ms. Clement visit with the dogs while Ms. Domingo picked

⁴ That statement is still accurate.

up some seat covers. They handed Thor and Juno’s leashes to a guest, who dropped the leashes. The dogs escaped.

12. The dogs went again to the Solozhuk property. Mr. Solozhuk testified that he heard the chickens making noise, and saw both dogs trying to get into their coop. Thor and Juno had already pulled wire out from the coop and left hair on the fence, in their attempt to get at his chickens. Ex. D3 at 003. He retained the dogs until Animal Services showed up and impounded them. Ex. D3 at 001-002.
13. Animal Services served a violation notice and also a notice of unredeemable animals. Exs. D5-D6. Ms. Clement’s appeal challenged the superior court’s decision, seeks to bring Thor and Juno home, and requests that (in the alternative) Ms. Domingo be allowed to adopt them. Ex. D9.
14. In deciding appeals, 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

15. On June 6, 2020, Thor and Juno were:
 - running in a pack, meaning “a group of two or more animals running upon either public or private property [*here, the Solozhuk 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,” in violation of KCC 11.04.020.R and .230.O;
 - trespassing, meaning a “domesticated animal that enters upon a person’s property [*the Solozhuk’s*] without the permission of that person [*the Solozhuk’s*],” in violation of KCC 11.04.230.K; and
 - a “vicious animal [*which Thor and Juno were by virtue of their 2018 viciousness designations*] that runs at large at any time it is off the owner’s premises [*here, the Solozhuk property*] and not securely leashed on a line or confined and in the control of a person of suitable age and discretion to control or restrain the animal,” in violation of KCC 11.04.230.I.
16. As to the notice of unredeemable animal, KCC 11.04.290.A.3, provides that:

Failure to comply with any requirement prescribed by the manager in accordance with this section [*here, the 2019 order to remove Thor and Juno from King County*] constitutes a misdemeanor. Such an animal shall not be kept in unincorporated King County after forty-eight hours after receiving written notice from the manager. Such an animal or animals found in violation of this section shall be impounded and disposed of as an

unredeemed animal and the owner or keeper of the animal or animals has no right to redeem the animal or animals.

The superior court sustained the removal order in May 2020. In June, Ms. Clement (the owner) and Ms. Domingo (the keeper) failed to comply with that removal order, hosting Thor and Juno back on Ms. Clement’s King County property. Animal Services impounded Thor and Juno and needs to handle them according to the provisions covering unredeemable animals. *See* KCC 11.04.210.B. Neither Ms. Clement nor Ms. Domingo has any *right* to redeem Thor or Juno.

17. Our question is whether, as a matter of *discretion*, we should essentially direct Animal Services on who to release Thor and Juno to. We offer some thoughts, but issue no order.
18. The extreme denial and indifference Ms. Clement exhibited in earlier hearings was on display again this round. She tried to rationalize Thor and Juno’s attempt to get at the Solozhuk chickens as “Jumping at a chicken coop. Big deal.” Ex. A9 at 002. She argued that Thor and Juno had been “framed” for the Jones goats’ deaths. Ex. A9 at 001. She peddled a theory that a raccoon or racoons took down the Jones’ two, 300-pound goats. Ex. A9 at 001; Ex. A2. And she allowed, if not encouraged, Ms. Domingo to bring Thor and Juno back in the King County and back onto her property, after the court dismissed her appeal of the removal order.
19. Ms. Domingo agreed that she knew the dogs were not allowed in King County, yet she brought them back into King County anyway (and specifically to the neighborhood in which they inflicted their damage). Then she handed the leashes to a guest. And she believes Thor and Juno are *not* vicious, but just curious and playful. Ex. A7. Animal Services can decide how best to rehome Thor and Juno, but Ms. Domingo would seem a counterintuitive choice.
20. Forward-looking, there is no question that Thor and Juno are generally friendly when people are around. Ms. Clement submitted letters from people attesting to their positive interaction around Juno and Thor. Exs. A3-A7. Mr. Solozhuk was able to hold them without incident, multiple times when they trespassed onto his property. Ofc. Silvia Reyes agreed that during the times she had to impound Thor and Juno from the neighboring properties, they were not aggressive to her. The only contrary evidence is that, in our first hearing, Sandra Jones testified that, as she tried to stop Thor and Juno’s attack on her goats, Thor and Juno blocked her way into the barn and growled at her.⁵ However, we see that more as a reaction to something getting between predators and their prey, interrupting them during their kill, and not as aggression directed against people per se.
21. Yet Thor and Juno are, in Ms. Clement’s words, “escape artists.” They are excellent at, and committed to, getting out. When they have escaped, lethal results for neighbors’ animals have sometimes followed. Beyond their many successful escapes from the

⁵ https://www.kingcounty.gov/~media/independent/hearing-examiner/documents/case-digest/appeals/animal%20enforcement/2018/2018%20november/V18008604_Clement.ashx?la=en at ¶ 3.


Clement property, in the play yard at Animal Services they bolt past their handler and spend their time looking for an exit and trying to dig a hole under the fence. Ex. D4 at 003, n. 6. Thor and Juno may be friendly with people, but they pose an extreme danger to neighbor's pets that they perceive as prey. And they are efficient and relentless.

22. Animal Services can use its discretion on how to handle Thor and Juno, but whomever winds up taking one or both dogs needs good judgment, awareness of Thor and Juno's escape drive and tendency, a clear understanding of the distinction between the warm exhibited around people versus the extreme risk posed to neighbors' pets Thor and Juno perceive as prey, a history of following rules and successfully managing difficult-to-contain dogs, and a commitment to doing so here.

DECISION:

We deny Ms. Clement's appeal.

ORDERED August 20, 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 *September 21, 2020*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

**MINUTES OF THE AUGUST 7, 2020, HEARING IN THE APPEAL OF
ELIZABETH CLEMENT, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V20010769-A20012136**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Elizabeth Clement, Nikolas Solozhuk, Cannon Jones, Silvia Reyes, and Ashly Domingo. 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 Animal Services:

Exhibit no. D1	Regional Animal Services of King County staff report to the Hearing Examiner
Exhibit no. D2	Complaint form of date June 6, 2020 incident by Nickolas Solozhuk, dated June 6, 2020
Exhibit no. D3	Photograph of Dogs
Exhibit no. D4	RASKC investigation report no. A2001213601
Exhibit no. D5	Notice of violation no. V20010769-A20012136, issued June 6, 2020
Exhibit no. D6	NVOC mailing/tracking history
Exhibit no. D7	Notice of Unredeemable animals
Exhibit no. D8	Proof of Service
Exhibit no. D9	Appeal, received June 23, 2020
Exhibit no. D10	RASKC investigation report no. A1800449501
Exhibit no. D11	Notice of Violation no. V18008604
Exhibit no. D12	RASKC investigation report no. A1900258601
Exhibit no. D13	RASKC investigation report no. A1900261001
Exhibit no. D14	Notice of Violation no. V19009471
Exhibit no. D15	Notice and Order for Removal no. V19009470
Exhibit no. D16	Proof of service
Exhibit no. D17	Appeal, received June 28, 2020
Exhibit no. D18	RASKC Investigation Report A1900521001
Exhibit no. D19	Notice of Violation no. V19009745
Exhibit no. D20	RASKC Investigation Report A1900525901
Exhibit no. D21	Notice of violation no V19009750
Exhibit no. D22	Superior Court order of dismissal
Exhibit no. D23	Map of subject area
Exhibit no. D24	Video of Clement dogs on Jones property on June 1, 2019
Exhibit no. D25	Video Clement dogs on Solozhuk property on August 18, 2019
Exhibit no. D26	Email from Chelsea Eykel, dated August 15, 2020

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

Exhibit no. A1	Photographs of Clement dogs
Exhibit no. A2	Email, dated May 2020
Exhibit no. A3	Survey of French Lake Dog Park
Exhibit no. A4	Letter from Heather Gornes, dated July 20, 2020
Exhibit no. A5	Email from Angie VanPelt, dated July 27, 2020
Exhibit no. A6	Email from Marcus Crawford, dated July 31, 2020
Exhibit no. A7	Email from Ashly Domingo, dated July 27, 2020
Exhibit no. A8	Email from Elizabeth Clement, dated August 14, 2020
Exhibit no. A9	Email rebuttal response, submitted August 18, 2020

August 20, 2020

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V20010769-A20012136**

ELIZABETH CLEMENT

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 August 20, 2020.



Jessica Oscoy
Office Manager

Clement, Elizabeth

Hardcopy

Domingo, Ashly

Hardcopy

Eykel, Chelsea

Regional Animal Services of King County

Jones, Cannon

Hardcopy

Reyes, Silvia

Regional Animal Services of King County

Solozhuk, Nikolas/Vangie

Hardcopy