

March 22, 2022

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V21012714-A21005857**

**JASON HERNANDEZ**  
Animal Services Enforcement Appeal

Activity no.: A21005857

Appellant: **Jason Hernandez**

[REDACTED]  
Issaquah, WA 98027

Telephone: [REDACTED]

Email: [REDACTED]

King County: Regional Animal Services of King County  
*represented by* **Rebecca Smokoska**  
Regional Animal Services of King County  
21615 64th Avenue S  
Kent, WA 98032  
Telephone: (206) 263-5968  
Email: [raskcappeals@kingcounty.gov](mailto:raskcappeals@kingcounty.gov)

FINDINGS AND CONCLUSIONS:

Overview

1. Jason Hernandez appeals a Regional Animal Services of King County (Animal Services) notice and order finding licensing, trespass, and viciousness violations related to his dog. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we deny his appeal, except that we reduce the licensing-related penalty amount.

### Background

2. On November 22, 2021, Animal Services issued a violation notice to Jason Hernandez for his dog, Tai,<sup>1</sup> being unlicensed unaltered, trespassing on private property, qualifying as vicious, and needing to be confined. Ex. D4. Mr. Hernandez filed an appeal on December 16, 2021. Ex. D6. We went to hearing on March 8, 2022.

### Hearing Testimony

#### *Testimony of Lynn Whittendale*

3. Lynn Whittendale testified that on November 19 she returned home around 1:30 p.m. to find some of her ducks in her driveway. This was odd because she has a secondary gate which keeps them in the side yard. As she walked around the house, she saw piles of feathers in her yard. She then saw Tai in her bird pen chasing a chicken. Ms. Whittendale cornered Tai and put him in her cabin. Ex. D13. This allowed Ms. Whittendale and a neighbor to round up her birds while not worrying about Tai getting any more of them.
4. Ms. Whittendale's property is surrounded by a six-foot fence. Ex. D8. On her side property she has a six-foot, hog wire, electric fence. Ms. Whittendale can open that gate to her side property for her animals. Tai must have gone through her outer-most, six-foot gate, then through the secondary whicker gate, and finally into the chicken coop. Ex. D10-D11.
5. Ms. Whittendale testified that because of this incident, four ducks and four chickens have passed away. Ex. D12. She is also missing about a dozen chickens. Ms. Whittendale believes that some of the missing birds might have drown in the river; she is not sure. Ms. Whittendale raises the birds for eggs. Prior to the incident she got a dozen eggs every other day. Now she gets maybe an egg a day, given how stressed the survivors are.
6. Ms. Whittendale went to Mr. Hernandez's house and spoke with Sarah, Jason's mother, because Jason was not home. Sarah told her she was "going to kill that fucking dog." Ms. Whittendale returned to her property to search for more birds. Sarah and another relative of Jason's came to her property and repeated what she had said earlier. Ms. Whittendale asked for them to leave because she was still caring for her birds.
7. A neighbor then told Ms. Whittendale that he saw Sarah in the neighborhood with a rifle. Hearing this, Ms. Whittendale decided to wait to release Tai until dark, to allow the situation to cool down. Ms. Whittendale described Tai as a "nice dog" (when he was not killing her animals), and she did not want any harm to come to Tai. She released him around 5:00 p.m.
8. At around 7:00 p.m. Tai was back on her property. Ms. Whittendale returned to the Hernandez property and spoke with Jason's stepdad, Matt. Matt said he was the only

---

<sup>1</sup> The dog was listed as "Makya" on his veterinary forms, "Ty" on Animal Services' notice and order, and "Tai" on the form Mr. Hernandez used to license Tai. Exs. A1 at 002 & 004, D4, and D7. We will go with the name Mr. Hernandez selected for his license, "Tai."

person home and gave Ms. Whittendale Jason's number to contact about Tai. By around 8:00 p.m., Tai was back on the Hernandez property.

9. On January 24, Ms. Whittendale's two neighbors said they saw Jason's girlfriend peering over the fence and that she said she was looking for Tai because he was out again.
10. On February 23 around 4:00 p.m., Tai and a Husky dog were in Ms. Whittendale's yard. She photographed them before she chased them. They jumped over her fence and into the river. Alyssa from the Hernandez house was out looking for Tai. Ms. Whittendale testified that she is able to recognize Tai.

#### *Testimony of Jason Hernandez*

11. Jason Hernandez testified that on November 19, he received a call at work around 11:00 a.m. that Tai was out. Mr. Hernandez's mother, fiancé and other relatives organized a search party to look for Tai. Mr. Hernandez's mother and cousin were approached by Ms. Whittendale at 10:30 a.m., saying that Tai had gotten into her yard. When they went over, they saw feathers in the yard.
12. Mr. Hernandez returned home around noon and joined the search for Tai. Mr. Hernandez testified that his mother had a firearm in case Tai was being vicious. Mr. Hernandez testified that Tai was missing from 11:30 a.m. to 5:00 p.m. A family member texted him that Tai had returned home around seven or eight at night.
13. Mr. Hernandez had not been home when Tai got out. When asked about why, in his appeal statement, he wrote that, "I had his leash in my hand and he slipped out right under my leg," Mr. Hernandez testified that he was covering for his brother and that his appeal statement was false.
14. Mr. Hernandez testified that Tai was not on Ms. Whittendale's property on February 23. His neighbor has a smaller German Sheppard and husky, like the one in the picture, and Tai was in the house that day.
15. Mr. Hernandez believes that Ms. Whittendale lured Tai. Ms. Whittendale's property is on the river and it is not fully fenced. A predatory animal could have access to her property from the river.
16. Mr. Hernandez explained he has all of Tai's records of vaccination and being microchipped. Ex. A1.

#### Legal Standards

17. Animal Services asserts that, as of November 19, Tai was unaltered and unlicensed, in violation of KCC 11.04.030.A, which requires all dogs eight weeks and older that are "harbored, kept or maintained" in King County be licensed and registered. Mr. Hernandez does not dispute this, but he has since licensed Tai.

18. Animal Services also asserts that on November 19 Tai trespassed, defined as a “domesticated animal that enters upon a person’s property without the permission of that person,” KCC 11.04.230.K. Mr. Hernandez does not dispute this.
19. More seriously, Animal Services asserts that Tai qualifies as vicious, defined 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,” with the violation itself framed as, “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.” KCC 11.04.020.BB; .230.H. Mr. Hernandez does dispute this.
20. 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.B.

#### Analysis

21. Ms. Whittendale came across as credible. She did not overplay anything about the altercation. She did not claim Tai was a menace to her or other humans in the neighborhood. Instead, she described Tai as a “nice” dog (albeit one that slaughtered her fowl). We found her credible and her testimony likely accurate.
22. Conversely, there was nothing remotely credible about Mr. Hernandez. Mr. Hernandez lying in an official document (his appeal statement) about him having been on the property and holding Tai on November 19 before letting go was not only arguably criminal,<sup>2</sup> it cratered his credibility. Yet even if he had not offered a false statement in his appeal and had instead begun the hearing with a clean slate, he spent his hearing time constantly undermining his credibility, coming across as combative, defensive, trapped in corner, and feeling the need to lash out and to distract attention away from the events of November 19.
23. Mr. Hernandez’s conspiracy theory about Ms. Whittendale luring Tai and his bizarre explanation that maybe, even though Tai was in the chicken coop with lots of dead birds some *other* predator may have killed them, was almost laughable. He could not even keep his story straight. He essentially accused Ms. Whittendale of lying when she said she first discovered Tai on her property at 1:30 p.m., when Mr. Hernandez claimed that Ms. Whittendale had approached the Hernandez family around 10:30 a.m. about Tai being on the Whittendale property. Yet Mr. Hernandez testified in almost his next breath that Tai

---

<sup>2</sup> Per RCW 9A.76.175:

A person who knowingly makes a false or misleading material statement to a public servant [here Animal Services] is guilty of a gross misdemeanor. “Material statement” means a written or oral statement reasonably likely to be relied upon by a public servant [Animal Services and perhaps the examiner] in the discharge of his or her official powers or duties.

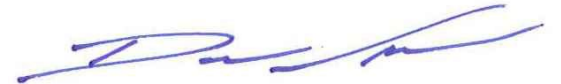
disappeared from the Hernandez property around 11:30 a.m., an hour after he claimed Ms. Whittendale was complaining about Tai trespassing. It is tough to overemphasize how utterly unpersuasive Mr. Hernandez was.

24. Turning to the version of events we find far more likely—Ms. Whittendale’s—Tai performed acts endangering (in several cases, fatally) the safety of Ms. Whittendale’s fowl and constitutes a danger to the safety of property (Ms. Whittendale’s fowl) off Tai’s premises. We deny his appeal on the viciousness designation, accompanying \$500 penalty, and compliance order.<sup>3</sup>
25. Mr. Hernandez did not challenge the trespass violation nor its \$50 penalty. On November 19 Tai was a “domesticated animal that enter[ed] upon a person’s [Ms. Whittendale’s] property without the permission of that person.” KCC 11.04.230.K.
26. The licensing violation is different. Yes, on November 19 Tai was unlicensed, in violation of KCC 11.04.030.A’s requirement that dogs over eight weeks kept in King County be licensed. But Tai was altered in early 2021, meaning the base penalty should have been \$125, not \$250. Ex. A1 at 001. And Mr. Hernandez licensed Tai on November 22. Ex. D7. In such a scenario we typically reduce the penalty. Here, we reduce the licensing penalty to \$70.

#### DECISION:

We deny Mr. Hernandez’s appeal in all respects, except that we reduce the total penalty from \$800 to \$620.

ORDERED March 22, 2022.



---

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 *April 21, 2022*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

---

<sup>3</sup> We note that our determination does not turn on whether the small German Shepherd pictured on the Whittendale property on February 23 was Tai or not. Unlike November 19, where Tai was caught red-handed, there is not the same level of proof for February 23. Having undercut his credibility on virtually everything else in the hearing, Mr. Hernandez is not exactly in the position to get the benefit of the doubt on his statement that it was a different small German Shepherd pictured on February 23, but we need not enter a finding on that to uphold the viciousness designation for the fatal November 19 attack.

**MINUTES OF THE MARCH 8, 2022, HEARING IN THE APPEAL OF JASON  
HERNANDEZ, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO.  
V21012714-A21005857**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Rebecca Smokoska, Lynn Whittendale, and Jason Hernandez. 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	Online Complaint form of November 19, 2021 incident by Lynn Whittendale, dated November 22, 2021
Exhibit no. D3	RASKC investigation report no. A21005857
Exhibit no. D4	Notice of violation no. V21012714-A21005857, issued November 22, 2021
Exhibit no. D5	NVOC mailing/tracking history
Exhibit no. D6	Appeal, received December 16, 2021
Exhibit no. D7	Pet License Receipt for Tai
Exhibit no. D8	Photograph of Lynn Whittendale’s Property Fencing
Exhibit no. D9	Photograph of Lynn Whittendale’s Secondary Gate
Exhibit no. D10	Photograph of Lynn Whittendale’s Chicken Coop
Exhibit no. D11	Photograph of Feathers in Lynn Whittendale’s Chicken Coop
Exhibit no. D12	Photograph of Lynn Whittendale’s Deceased Ducks
Exhibit no. D13	Photograph of Tai inside Lynn Whittendale’s Cabin
Exhibit no. D14	Photograph of neighbor statement regarding OREO killing chickens
Exhibit no. D15	Map of subject area

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

Exhibit no. A1	Spay/Neuter Certificate, Rabies Vaccination Certificate, Microchip
Exhibit no. A2	Screenshot from Nextdoor post

DS/lo

March 22, 2022

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V21012714-A21005857**

**JASON HERNANDEZ**  
Animal Services Enforcement Appeal

I, Lauren Olson, 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 March 22, 2022.



---

Lauren Olson  
Legislative Secretary

**Hernandez, Jason**

Hardcopy

**Purcellrahn, Sarah**

**Smokoska, Rebecca**

Regional Animal Services of King County

**Whittendale, Lynn**

Hardcopy