

March 25, 2022

**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. **V21012798 and V22012820**

ROSE AND PAUL GLOVER

Animal Services Enforcement Appeal

Activity no.: A21006381

Appellants: **Rose and Paul Glover**

[REDACTED]
Kent, WA 98030

Telephone: [REDACTED]

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King County: Regional Animal Services of King County
represented by **Rebecca Smokoska**
Regional Animal Services of King County
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FINDINGS AND CONCLUSIONS:

Overview

1. This case involves an appeal by Rose and Paul Glover related to a violation notice declaring their dog, Buddha, vicious and order Buddha removed from King County. After hearing witness testimony and observing demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we modify the removal terms and extend the deadline to June 1, 2022.

Background

2. On December 27, 2021, Regional Animal Services of King County (Animal Services) issued a violation notice to Paul Glover for his dog, Buddha, qualifying as vicious and needing to be confined. Ex. D4. On January 4, 2022, Animal Services issued an order removing Buddha from King County. Ex. D6. On January 19, Paul and Rose Glover appealed. Ex. D8. We went to hearing on March 9.

Hearing Testimony

Testimony of Marva Johnson

3. Marva Johnson testified that on October 23, 2021, Buddha bit Ms. Johnson's daughter on the thigh. When Ms. Johnson returned home, she told the Glovers to be more responsible with Buddha.
4. The following month, Buddha attempted to attack Ms. Johnson's dog. She was able to pick her dog up before Buddha got to her. Buddha did not make contact with her that day.
5. On December 26, 2021, as Ms. Johnson was walking from her car to her house, she heard Mr. Glover say, "Come here Buddha." She turned and saw Buddha running towards her. Ms. Johnson was not scared of dogs, so she did not think to run away. However, Buddha jumped on Ms. Johnson and bit her left thigh. She tried to kick Buddha with her right leg. Buddha bit her right leg, and then bit her left leg again.
6. Ms. Johnson started screaming and fell on the ground. Buddha bit her one last time while she lay on the ground. Ms. Johnson believes Buddha bit her a total of five or six times. Mr. Glover was trying to get Buddha off her, but Buddha was not wearing a collar or leash for Mr. Glover to hold onto. Ms. Glover came out and was finally able to get Buddha off Ms. Johnson.
7. Ms. Johnson went inside her house. She unzipped her one-piece outfit and her flesh was rolling down her legs. Exs. D10-D11. She then drove herself to the ER.
8. Ms. Johnson was only able to take off all the wound vacs (an apparatus attached to the wounds to help them heal) two weeks before our hearing. Some of her wounds are still slightly open. Ex. D12. She received fourteen sutures for her thigh wound and eight sutures on another wound. There were other wounds that did not get sutures because the hospital was worried about infection. Ex. D14.

Testimony of Paul Glover

9. Paul Glover testified that he did not know the situation on December 26 would escalate so quickly. He was on the porch, with the front door cracked; Buddha was not outside with him. From the porch, Mr. Glover could not see around the corner of the house. Until he heard Ms. Johnson yell, "Buddha, stop," he had not realized Buddha had gotten out of the home.

10. Mr. Glover rounded the corner and saw Buddha and Ms. Johnson. He was about forty-five seconds behind Buddha. Mr. Glover pulled Buddha off once, but Buddha went back at Ms. Johnson. Mr. Glover attempted to get Buddha off Ms. Johnson but he was slipping in the snow. He also was only using one hand to try to get Buddha, because he had his phone in the other hand. Within a minute, Ms. Glover came outside and bear-hugged Buddha to get him off Ms. Johnson.
11. Buddha had not done anything malicious before this incident. He knew Buddha had jumped at Ms. Johnson's dog before. He did not recall Buddha biting Ms. Johnson's daughter.

Testimony of Rose Glover

12. Rose Glover testified that Ms. Johnson and Mr. Glover were recalling the December 26 incident correctly. On that day, Ms. Glover had been inside the house on the phone. Mr. Glover had stepped outside to also take a phone call. Ms. Glover noticed that the front door was open, and she heard yelling. Ms. Glover ran outside and jumped on Buddha to get him off Ms. Johnson.
13. Ms. Glover explained that due to her car's poor snow capabilities, she did not feel confident in driving Ms. Johnson to the hospital. She offered to get Ms. Johnson an uber or call for an ambulance. Ms. Johnson insisted she would drive herself.
14. Ms. Glover testified that she was with Buddha when he bit Ms. Johnson's daughter. It looked like Buddha only jumped on Ms. Johnson's daughter, and Ms. Glover repeatedly asked her if she was okay or if she was bit. Ms. Johnson's daughter said she was alright. It was not until later that Ms. Johnson told Ms. Glover that Buddha had bit her daughter.
15. Ms. Glover feels horrible about all this and apologized to Ms. Johnson. Ms. Glover's insurance is covering Ms. Johnson's hospital bills.
16. The Glovers have had people over to their house before, and Buddha has been well-mannered. The Glovers are taking every precaution now. Ms. Glover is not sure what triggered Buddha that day.
17. The Glovers currently have Buddha at a friend's house. The Glovers are working on moving into a house with a yard for Buddha.

Legal Standards

18. In V21012798, Animal Services asserts that Buddha attacked a woman and 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.

19. In V22012820, Animal Services ordered Buddha removed from King County under KCC 11.04.290.A.1, which states that, in determining what to do with a vicious animal, Animal Services must take into consideration several factors, the pertinent one being the “extent of injury or injuries.”
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. To their credit, the Glovers did not challenge Buddha’s viciousness designation. Even if they had, we would easily have found that Buddha performed an act endangering the safety of any person, including attacking a human being or domesticated animal without provocation,¹ and constitutes a danger—a significant danger—to the safety of persons off Buddha’s premises.
22. It is not clear if the Glovers are actually challenging Buddha’s removal order, but this too would have been unsuccessful. Where a removal order is premised on a single incident (meaning not a scenario where, say, a dog is declared vicious for one act, and then later does something else), appellants have been fairly successful; we have overturned more KCC 11.04.290.A.1 removal orders than we have upheld. Even in jurisdictions that have the “dangerous” label—a more serious designation than the County’s “vicious”—removal is typically not the remedy even for a dog “inflict[ing] severe injury on a human being without provocation,” meaning “broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery.” RCW 16.08.070.2.–.3, .080(6), .090(1).
23. And we have overturned KCC 11.04.290.A.1 removal orders where the *result* was traumatic, but where the *activity* that caused that result was not ultraviolent. For example, in one such appeal a dog jumped up and seized a woman’s arm as she entered an apartment. The dog did not bite down with a tremendous amount of force; instead, only one tooth punctured the skin. However, that tooth was a canine tooth, and as the woman pulled her arm away and the dog slid down, the canine tooth tore a long, deep, nasty gash, leaving the victim physically and psychologically scarred. We upheld the viciousness designation but overturned the removal order, reasoning that although the outcome was ghastly, the single act of seizing the woman’s arm with a relatively low-pressure bite was not.

¹ The “provocation” inquiry in animal jurisprudence “focuses ‘on how an average dog, neither unusually aggressive nor unusually docile, would react to an alleged act of provocation.’” *Bradacs v. Jacobone*, 244 Mich. App. 263, 273, 625 N.W.2d 108, 113 (2001) (citing *Kirkham v. Will*, 311 Ill. App. 3d 787, 792, 724 N.E.2d 1062 (2000)). And a key touchstone of courts’ analyses is that “provocation” requires the dog’s reaction to be proportional to the victim’s act. *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792. Ms. Johnson did nothing here, and an average dog would not have run across the parking lot to get at her. And even if she had somehow incited Buddha, the extent and brutality of his attack were grossly disproportionate to anything Ms. Johnson did.

24. This case is the polar opposite of that. Not only did Buddha bite with enough force to tear apart Ms. Johnson’s thigh, but he kept biting her, even as Mr. Glover attempted to restrain Buddha, and even as Ms. Johnson fell down defenseless. This is among the most gruesome two or three attacks on a human we have seen in 911 Animal Services appeals to reach us. Animal Services easily meets its burden of showing that removal is warranted.
25. We are wary of essentially kicking a threat like Buddha to another jurisdiction. However, euthanasia is not on the table today; Animal Services has not sought to put Buddha down, nor is it clear Animal Services could even have the authority to do so. Animal Services may impound and euthanize an animal suffering from serious injury or disease, including rabies. KCC 11.04.210.A.3; KCC 11.12.020.A. But while Buddha *caused* great suffering and serious injury, he himself does not seem to be suffering. And as we read the current code, only where an owner gets a removal order and *later* disobeys that removal order, may Animal Services (re)seize the animal and euthanize it. KCC 11.04.290.A.3; KCC 11.04.210.B.4. (Today we finalize the removal order, but the order was paused while the Glovers pursued their appeal. KCC 20.22.210.A.) So, as we read the law, Animal Services would have no authority today to order anything beyond removal.²
26. Where we uphold a removal order for a dog from either unincorporated King County or one of the King County cities Animal Services contracts with to provide services (and over which we have jurisdiction), we have consistently interpreted that as a requirement to remove the dog from unincorporated King County and from those contract cities where the same legal standard applies. Those cities are currently:
- | | | |
|-----------------------|------------------|---------------------|
| A. Beaux Arts Village | B. Bellevue | C. Black Diamond |
| D. Carnation | E. Clyde Hill | F. Covington |
| G. Duvall | H. Enumclaw | I. Issaquah |
| J. Kenmore | K. Kent | L. Lake Forest Park |
| M. Maple Valley | N. Mercer Island | O. Newcastle |
| P. North Bend | Q. Redmond | R. Sammamish |
| S. SeaTac | T. Shoreline | U. Snoqualmie |
| V. Tukwila | W. Woodinville | X. Yarrow Point |

² Even for jurisdictions following the state model, a dangerous dog inflicting severe injury on a person, including disfiguring lacerations requiring multiple sutures or cosmetic surgery, would be retainable by the owner, in its current home, provided the owner installs warning signs (including a sign with a warning symbol) to inform visitors that there is a dangerous dog on the property, installs a proper enclosure, muzzles the dog anytime it is outside that proper enclosure, obtains a \$250,000 surety bond, and keeps a \$250,000 liability insurance policy. RCW 16.08.080(6), -.090(1). At least on first blush, it is not clear that even under state law a jurisdiction could euthanize a dangerous dog, except where the dog is later not maintained in accordance with the restrictions, at least absent some additional local authorizing code. RCW 16.08.070.2.–.3, .100, .080(9).

27. That leaves south end cities such as Algona, Auburn, Burien, Des Moines, Federal Way, Milton, Normandy Park, and Pacific as potential landing spots. The Glovers may wish to explore those options; some cities may have their own restrictions. And while the facts here point to Buddha meeting the “dangerous dog” criteria, King County does not have that designation. So, the designation we uphold for Buddha today on appeal is “vicious,” not “dangerous.” That “vicious” versus “dangerous” distinction may be legally significant.
28. The Glovers have, since the attack, housed Buddha primarily with friends. Although the friends’ address may say “Auburn,” a search of King County Parcel Viewer shows the area to be unincorporated King County. So that place is not a long run solution. However, the Glovers temporarily rehoming Buddha does change the timing of removal. In past appeals, we have limited the window an appellant has to find alternative lodging outside unincorporated King County and the contract cities, because the dog was living next door to the victim. Thus, the victim was suffering additional trauma from the dog’s continuing mere proximity. Here, so long as the Glovers never again bring Buddha back to the apartment complex, that suffering is lessened.
29. As it is late March, it would seem the earliest the Glovers could possibly sign another lease and be in a new place would be May. Even that seems to be pushing it. The Glovers were impressive at hearing, not being in denial, not minimizing Buddha’s egregious attack, and seemingly committed to preventing anything similar from happening again. So, we will give them until the June 1 to get Buddha out of unincorporated King County and the contract cities. And provided the Glovers follow this and the other removal terms, the \$1000 penalty associated with the removal order is stayed. If Buddha thereafter returns to these jurisdictions, in addition to collecting a \$1000 penalty, Animal Services may impound Buddha and potentially euthanize him.

DECISION:

1. We UPHOLD Buddha’s viciousness designation and removal order. Effective **March 28, 2022**, Buddha may come nowhere near the Alder Lane apartment complex.
2. We REDUCE the otherwise-applicable penalty associated with the viciousness violation from \$500 to \$300.
3. By **June 1, 2022**, the Glovers shall microchip Buddha (if not microchipped already) and then either:
 - A. Find a potential new owner outside of King County and outside the above-listed contract cities, disclose to that person that Buddha was ordered removed from King County as a threat to public safety, have that person agree to take Buddha on, actually get Buddha out, and provide Animal Services proof that this new owner lives outside of King County and the new owner’s contact information, or
 - B. Move with Buddha to a new residence, and provide Animal Services their new address; or

- C. Surrender Buddha to Animal Services.
4. If Buddha never again comes near the Alder Lane apartment complex after **March 28, 2022**, and if by **June 1, 2022**, the Glovers timely and successfully complete A., B., or C., and thereafter do not allow Buddha to return to King County or one of those contract cities, the \$1,000 penalty attached to the removal order is waived. If not, the \$1000 penalty is reinstated and Animal Services may impound Buddha.

ORDERED March 25, 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 25, 2022*. 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 MARCH 9, 2022, HEARING IN THE APPEAL OF ROSE AND PAUL GLOVER, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS. V21012798 AND V22012820

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Rebecca Smokoska, Marva Johnson, Paul Glover, and Rose Glover. 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	RASKC investigation report no. A21006381
Exhibit no. D3	Marva Johnson Statement, dated December 27, 2021
Exhibit no. D4	Notice of violation no. V21012798-A21006381, issued December 27, 2021
Exhibit no. D5	Photograph of Door Posting for V21012798
Exhibit no. D6	Notice and order for removal no. V21012820-A21006381, issued January 4, 2022
Exhibit no. D7	Photograph of Door Posting for V22012820
Exhibit no. D8	Appeal, received January 19, 2022
Exhibit no. D9	Photograph of dog, “Buddha”, owned by Paul Glover and Rosa Glover
Exhibit no. D10	Photograph of Marva Johnson’s injuries after the attack
Exhibit no. D11	Photograph of flesh and blood on Marva Johnson’s clothes
Exhibit no. D12	Photograph of Marva Johnson’s injuries while healing
Exhibit no. D13	Google Map – Overhead view of incident location
Exhibit no. D14	Marva Johnson Medical Records
Exhibit no. D15	RAKSC Area of Jurisdiction

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

Exhibit no. A1	Current address of Buddha
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DS/lo

March 25, 2022

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file nos. **V21012798 and V22012820**

ROSE AND PAUL GLOVER
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 25, 2022.



Lauren Olson
Legislative Secretary

Glover, Rose/Paul
Hardcopy

Johnson, Marva
Hardcopy

Smokoska, Rebecca
Regional Animal Services of King County