

November 16, 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. **V22013272-A22003065**

**FRED STRATIS AND TARINNA PAYSENO**

Animal Services Enforcement Appeal

Activity no.: A22003065

Appellants: **Fred Stratis and Tarinna Payseno**

[REDACTED]  
Auburn, WA 98001

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  
Email: [raskcappeals@kingcounty.gov](mailto:raskcappeals@kingcounty.gov)

FINDINGS AND CONCLUSIONS:

Overview

1. Fred Stratis appeals a Regional Animal Services of King County (Animal Services) enforcement action involving his dog, Bo. 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 sustain the running at large and viciousness violations, overturn the habitually threatening persons in public violations, and sustain the removal order (with modified conditions).

### Background

2. On September 8, 2018, a canvasser visiting the Stratis home filed a complaint that Bo had attacked him that morning, biting him on the leg and arm. Ex. D13. The following day, Animal Services issued Mr. Stratis a violation notice (V18008614) for Bo running at large, being on public property not under control, qualifying as vicious, and needing to be confined. Ex. D14. Mr. Stratis did not appeal, meaning Bo’s viciousness designation, and the order to:

Secure your animals in a fenced area suitable for the size of the animal when your animal is unattended and outside your home. Lock all passages with a padlock to prevent accidental release.

Restrain your animal using a leash with a collar or harness when taking it off your property. Your leash can extend no longer than 8’ in length. A competent and capable person must handle the animal at all times when attended outside.

became final and unreviewable by October 3, 2018.

3. On May 24, 2021, Fred and Lydia Stratis and Vincent McMillan signed a mutual restraining order, valid for one year; on June 17, 2022, they renewed the order, valid for another year. Ex. D2.
4. On May 17, 2022, Thomas Gammons filed a complaint that Bo attacked him on May 14. Ex. D9. Ms. Stratis asserted to the responding officer that she released Bo because she had been afraid that Mr. Gammons would hurt Mr. Stratis. Ex. D10 at 002, n.3. Animal Services did not issue a violation notice related to the May 14 incident.
5. On June 10, 2022, Jacob Stone and Vincent McMillan each filed a complaint regarding an altercation with Bo earlier that day. Ex. D6. On June 27, Animal Services cited Mr. Stratis for Bo running-at-large, animal-threatening-persons-in-public, and again qualifying as vicious, and it ordered Bo removed from King County based on a failure to comply with the 2018 confinement order. Ex. D7. On August 2, Mr. Stratis (with help from his daughter, Tarinna Payseno) filed an appeal. Ex. D11.
6. Because the appeal was due 24 days after Animal Services issued its decision (i.e., July 21), Animal Services moved to dismiss the appeal as untimely. KCC 20.22.080.B. & H. On September 2, we held a hearing on Animal Services’ motion. We denied the motion and went to hearing on October 26. We provided Appellants’ witness, Julio Palomares, with a Spanish interpreter.

### Hearing Testimony

#### *Testimony of Thomas Gammons*

7. Mr. Gammons testified about a May 14, 2022, incident with Mr. Stratis and Bo. Mr. Stratis was dumping yard waste on the right-of-way in front of his property. When he confronted Mr. Stratis, Mr. Stratis told him to f--- off and went back to get another full wheelbarrow. Mr. Gammons was next to Mr. Stratis but did not touch him.
8. Ms. Stratis opened the house door and called for Bo. Bo came running at Mr. Gammons, hackles up and teeth flared. Mr. Gammons kicked at Bo 8 to 10 times, but Bo kept coming. Neither Stratis did anything about it or attempted to call Bo back. Bo eventually got tired of being kicked. Both Mr. Gammons and the Stratises called 911.
9. Mr. Gammons' relationship with the Stratises was fine up until about two years ago, when the Stratises started arguing with Mr. McMillan. Prior to that, he had watered the Stratises garden and Mr. Stratis had showed off his model airplanes. Mr. Gammons has seen Bo off-leash and outside the Stratis property about four other times since September 2018.

#### *Testimony of Vincent McMillan Sr.*

10. Mr. McMillan testified that he avoids coming near the Stratis property. The restraining order states that Mr. McMillan and Mr. Stratis need to be at least 20 feet away from each other, though Mr. McMillan put markers 25 feet from the Stratis property, thus giving him a five-foot cushion.
11. Mr. McMillan's brother-in-law, Jacob Stone, had installed orange fencing across from the Stratis property. On June 10, Mr. McMillan was driving home when he noticed that the orange fencing was falling; it looked like someone clipped it. Mr. McMillan called Mr. Stone to inspect it. Mr. Stone arrived with his four-year-old daughter (Mr. McMillan's niece). They heard a noise coming from the bushes, so Mr. Stone got closer to inspect.
12. Mr. McMillan remained in the back with his niece. Given all the past times the Stratises had let out Bo, Mr. McMillan wanted to be close to protect his niece, in case the Stratises let Bo out again. (He estimated that he had seen Bo off the Stratis property, without a leash, five to six times since the September 2018 confinement order was issued. He saw Mr. Stratis's hand on the secondary gate, but he then turned his attention to the child, so he did not see whether Mr. Stratis intentionally or accidentally let Bo out.
13. Mr. Stratis opened his gate and Bo came out. Mr. Stone and Mr. McMillan called the police and Animal Services.

#### *Testimony of Jacob Stone*

14. Mr. Stone testified that on June 10, after he arrived to inspect the orange fencing, he heard someone in the bushes. He walked closer to investigate. At the time, there was no protective order against him. He found Mr. Stratis behind the bushes with a pair of green

- shears. Mr. Stone confronted Mr. Stratis as to why he was within 20 feet of the McMillan property. Mr. Stratis responded that he did not need to follow the protective order.
15. Mr. Stratis then came out from the bushes and walked to his main gate, but that was locked. So, Mr. Stratis walked back towards the bushes and the secondary gate. Mr. Stone estimated that Mr. Stratis was about 20 feet away from him. Mr. Stratis put his arm on the gate and smiled at them. He opened that gate, and stood in the gap, instead of simply going in and closing the gate behind him. Mr. Stratis smirked at them, so Mr. Stone warned Mr. Stratis not to let Bo out, as the Stratises had on previous occasions.
  16. Despite the warning, Mr. Stratis, who had been blocking the open gate with his body, moved to the side to let Bo out. Bo came out, growling, hackles up, and snapping before Bo even reached them. Mr. Stone thought Bo was going at Mr. McMillan, so he stepped in and Bo changed course to go at Mr. Stone. Mr. Stone kicked Bo once, and Bo bit him. Mr. Stone's dog then jumped on Bo and Bo also bit Mr. Stone's dog. When Mr. Stone attempted to kick Bo again, Bo turned around and ran back towards the service gate and from a distance continued barking and growling. Mr. Stone pulled his dog back and stepped forward, attempting to intimidate Bo back into his yard. The Stratises called to Bo and Bo went back inside immediately.
  17. It took Mr. Stone 30 seconds or so to realize he had been bitten. His leg felt numb, so he pulled his pants up and saw a bright red mark. Ex. D4. Examining the picture of his leg from that day, he pointed to indentations and bruising from Bo's mouth, but clarified that the open red sore was *not* from Bo but from a previous bug bite. He called 911, and the EMT's arrived to examine him.

*Testimony of Julio Palomares*

18. Mr. Palomares works for the Stratises. Mr. Palomares thinks the neighbors simply do not like Bo, but he cannot identify why; when Mr. Palomares comes to the Stratis home, Bo always greets him well.
19. Mr. Palomares has only seen Bo off the Stratis property once, and that was the first time Mr. Palomares came to the property. He left the door open, and Bo exited and followed a person on the road. Bo did not attack him or the other person.
20. Mr. Palomares has never directly seen the neighbors taunt Bo, but on one occasion Mr. Palomares saw Mr. McMillan Jr. shooting a rifle towards the Stratis home. One of the shots hit his vehicle. Mr. Palomares called the police.

*Testimony of Lydia Stratis*

21. Ms. Stratis is in her mid-70s and Mr. Stratis is 90 years old. Ms. Stratis explained why she believes they have a right to trim vegetation in, and dump their own vegetation onto, the public right-of-way.
22. Ms. Stratis believes the neighbors are harassing them in retaliation because the Stratises filed a police report alleging that the neighbors were running a nightclub-type business at around 2-3 a.m. She questioned why Mr. McMillan needs to be on the public right-of-

way, given that they do not live on that road. When the neighbors come near the Stratis property, they whistle at the Stratis dogs, instigating Bo to bark.

23. As to the May 14 incident with Mr. Gammons, it scared her, because Mr. Stratis has had heart problems and many medical issues. Mr. Gammons bumped Mr. Stratis, and Ms. Stratis was afraid Mr. Gammons would hit him. Bo was the only weapon she had, so she released him, and she would do it again. Bo went up to Mr. Gammons but in the attack only barked. Mr. Gammons kicked Bo three to four times and hurt Bo.
24. The Stratises bought locks for their gates. The only time Bo gets out of the property and onto the road is when someone opens the gate and forgets to close it, but the Stratises call to Bo and Bo returns home (though Bo is not keen to returning immediately). Ms. Stratis did not fully comprehend the 2018 confinement order; she thought that the confinement order ended in about 10-30 days after it was issued.
25. On June 10, Mr. McMillan and Mr. Stone were outside yelling that Mr. Stratis could not cut bushes. Bo was excited because there were people standing there. Bo is a guard dog/watchdog, but he is not mean; he will lick visitors. She thinks Bo was provoked to act. Bo rushed past Mr. Stratis and went to Mr. Stone's dog, not to Mr. Stone. Bo just barked at Mr. Stone's dog, but did not charge at Mr. Stone. Bo did not bite or attack anyone. Mr. Stone kicked Bo until Mr. Stratis called Bo back inside the yard.

*Testimony of Fred Stratis*

26. Mr. Stratis explained what he believed his rights were vis-à-vis trimming vegetation in the right-of-way and dumping vegetation from his property onto the right-of-way.
27. As to the May 14 incident with Mr. Gammons, Mr. Gammons came towards him after Mr. Stratis dumped his grass clippings on the right-of-way. Mr. Stratis had another load he wanted to dump and told Mr. Gammons he would continue dumping. Mr. Gammons threatened him and was physically against him. After Bo came out, Mr. Gammons kicked Bo before Mr. Stratis grabbed Bo and went back into his yard.
28. On June 10 Mr. Stratis was clearing the bushes near his property line. When Mr. Stone confronted him, Mr. Stratis was first reticent to walk past Mr. Stone. Mr. Stratis walked past Mr. Stone and tried entering his property by his main gate, but it was locked. He walked back and opened his service gate. He did not purposefully let Bo out, but Bo was provoked to act. Suddenly, Bo came out of the gate and went after Mr. Stone's dog. Bo bit Mr. Stone's dog, but not Mr. Stone. Mr. Stone kicked Bo.
29. Mr. Stratis called Bo back and jerked him back inside. Bo is a big, black, stupid lab, a gentle dog and does not bite anybody. The only reason Bo got out on June 10 was because he was provoked and was trying to defend Mr. Stratis.

*Testimony of Tarinna Payseno*

30. Ms. Payseno testified that Bo suffers harassment from the neighbors. The neighbors tease and bate Bo, and they are using Bo as a weapon to retaliate against the Stratises. There have been lots of police calls from both sides.

31. About six months ago, the Stratises locked all their gates for their own safety, not to contain Bo. They are doing everything they can to make sure Bo does not get out. Bo was provoked for both the May 14 and June 10 incidents. Bo did not bite Mr. Stone.

### Analysis

#### *Review Standard*

32. In deciding today’s appeal, 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.

#### *Running-at Large*

33. The simplest item is whether, on June 10, Bo was “running at large,” meaning “off the premises of the owner and not under the control of the owner, or competent person authorized by the owner, either by leash, verbal voice or signal control,” with “under control” defined as “either under competent voice control or competent signal control, or both, so as to be restrained from approaching any bystander or other animal and from causing or being the cause of physical property damage when off a leash or off the premises of the owner.” KCC 11.04.020.W, .AA; .230.B.
34. While the Stratises<sup>1</sup> debate whether they accidentally or intentionally let Bo out onto the public right-of-way on June 10, and whether he was going at a person or Mr. Stone’s dog, there is no question that Bo was off the Stratis property and not restrained from approaching a bystander or other animal. Animal Services has proven a running at large violation.<sup>2</sup>

#### *Vicious*

35. As to whether Bo qualifies again (meaning in addition to his September 2018 viciousness designation) as vicious, the standard is whether Bo “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 “[a]ny 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. Analyzing what happened on June 10 requires a careful assessment of the testimony, photograph of Mr. Stone’s leg, and video from that day.

---

<sup>1</sup> We incorporate the arguments of Mr. Stratis, Ms. Stratis, and their daughter Ms. Payseno under the term “the Stratises.”

<sup>2</sup> The Stratises are catching a break here, because when a dog previously declared vicious (as Bo was in 2018) runs at large, Animal Services usually cites the owner for a \$500 *vicious* dog running at large violation (KCC 11.04.230.I), and not the \$50 running at large violation (KCC 11.04.230.B) that applies to a non-vicious dog. But here Animal Services chose to cite only the lesser KCC 11.04.230.B violation.

36. The first video, exhibit D3, shows Mr. McMillan and Mr. Stone in the right-of-way, paused and talking on the gravel path. That is consistent with Mr. Stone and Mr. McMillan's version that they heard a noise and discussed whether it might be Mr. Stratis, before Mr. Stone went to investigate.
37. Next, we see Mr. McMillan pacing on the road with his niece, well outside the 20-foot protective order restraint for him, as Mr. Stone goes-off camera to investigate. While Mr. Stone appears to be at least 20 feet away from the Stratis property when he reemerges on film, as of June 10 there was no protective order against Mr. Stone. So, the entire public right-of-way was legally available to Mr. Stone that day.
38. While we do not know how close Mr. Stone got to Mr. Stratis off-camera, that was not when Bo charged. Instead, we see Mr. Stone return to the gravel road, as Mr. Stratis comes to his main gate, before turning around to walk to the auxiliary gate. We return below to the question of whether Mr. Stratis let Bo out on purpose or by accident, but at no time between Mr. Stone's return to the gravel road by the 17 second mark and Mr. Stone stepping up at the 1:04 mark to meet Bo's charge, do either Mr. Stone or Mr. McMillan come off the gravel road toward Mr. Stratis or the Stratis property.
39. Estimating the distance from Mr. Stone and Mr. McMillian to Mr. Stratis and the second gate is a little hard, especially because Mr. Stratis and that gate are off camera. But we know that the white cone visible in exhibit D3 is approximately 25 feet from the nearest point of the Stratis fence. And Mr. Stratis and the second gate were not at the nearest point of his fence, but diagonally off and to the right. So, when Mr. Stratis opened the gate, Mr. Stone and Mr. McMillian were 25 feet or more from Mr. Stratis and the second gate, and had been in their general positions for approximately 45 seconds.<sup>3</sup>
40. Exhibit A13 shows a different vantage point for four of those seconds, with Mr. Stone staying on the gravel roadway as Mr. Stratis tries unsuccessfully to get into the main gate. Exhibit A4 shows four seconds slightly after exhibit A13, with Mr. Stratis and Mr. McMillan exchanging harsh words as Mr. Stratis moves towards the secondary gate and Mr. Stone and Mr. McMillan remain on the gravel road.
41. Returning to exhibit D3, after Mr. Stratis lets Bo out, Bo runs at the group. Mr. Stone steps in and kicks at the charging Bo, followed by a few seconds of an altercation between Bo, Mr. Stone, and Mr. Stone's dog. Afterward, Mr. Stone calls someone on the phone, as Mr. Stratis and Mr. McMillan trade insults. Exs. A7 & A12.
42. The Stratises deny that Bo bit Mr. Stone. Having review hundreds of photos in dog cases, the picture of Mr. Stone's leg looks like multiple teeth indentations, with some bruising. Ex. D4. There is nothing inconsistent with Mr. Stone's testimony that he did

---

<sup>3</sup> Although Mr. Stone put the distance from them to the gate at 20 feet, that is an underestimate. First, we have seen in our cases, and we take judicial notice, that witnesses typically underestimate distances to a target (in much the same way that witnesses typically overestimate the duration of an incident). See, e.g., *How Accurate are Witness Distance Estimates Given In Car Lengths?* ("In only 3 instances did the subject overestimate the distance. In 97 out of 100 instances, the subjects underestimated the distance."), available at <https://www.nathanarose.com/blog/how-accurate-are-witness-distance-estimates-given-in-car-lengths>. Second and more importantly, we have a 25-foot marker on the video from which to judge distances.

not realize for several seconds that he had been bit. His social media post that Bo “tried to attack me” (exhibit A14) is consistent with Bo coming at them and Mr. Stone receiving only a relatively minor bite as he kicked Bo away.

43. We find, more likely than not, that Bo bit Mr. Stone. But that is not necessary to our holding. While it is easier to show that the dog meets the viciousness designation by biting a person, that is not how the code defines “vicious,” the standard being performing an act endangering the safety of a person or an animal. KCC 11.04.020.BB. Bo charging at the persons and dog standing on the road with his hackles raised, trying to get at at least the Stone dog, was an endangering people and/or animals. And again, that holding does not turn on whether Bo was going after Mr. Stone, Mr. McMillan, or the Stone dog.
44. A lack of provocation is necessary to our holding, as provoked actions do not count. The Stratises argue that Bo was provoked, meaning Animal Services has the burden to prove lack of legal provocation.<sup>4</sup> 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.’”<sup>5</sup> And a key touchstone of courts’ analyses is that “provocation” requires the dog’s reaction to be roughly proportional to the victim’s act.<sup>6</sup> Bo charging Mr. Gammons in May, as Mr. Gammons and Mr. Stratis argued face to face, might have been justified to prevent harm to Mr. Stratis and proportional to Mr. Gammon’s actions that day against Mr. Stratis (see paragraph 53). But Bo’s June charge of Mr. Stone and his dog, standing over 25 feet away, was grossly disproportionate to any provocation Mr. Stone, his dog, or Mr. McMillan were creating.
45. Nor does Mr. Stone kicking at a charging Bo qualify as provocation. A person need not wait till he is injured before taking defensive action against a menacing animal.<sup>7</sup> Where a dog is already in attack mode, people have a right to defend themselves or their pets; even assuming Bo was going after the Stone dog and not a person, Mr. Stone intervening to protect his dog and getting bit in the process does not make Bo’s bite “provoked.”<sup>8</sup> Bo came out, growling, hackles up, and snapping before Bo even reached them. Mr. Stone behaved appropriately to protect himself and others with him from a charging Bo.
46. The Stratises’ argument that Bo was going for the Stone dog actually makes it *worse*, not better. An act endangering the safety of another animal still qualifies as a vicious act. KCC 11.04.020.BB. The video shows Mr. Stone and Mr. McMillan arguing with Mr. Stratis, but at no point in exhibits D3, A13, or A4 does the Stone *dog* do anything even

---

<sup>4</sup> Although provocation is typically an affirmative defense, *Patterson v. New York*, 432 U.S. 197, 202-03 (1977), because “without provocation” is part of the definition itself (KCC 11.04.020), where the issue is raised in an appeal, Animal Services bears the burden of showing, by a preponderance of the evidence, that Bo acted without legal provocation.

<sup>5</sup> *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)).

<sup>6</sup> *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792.

<sup>7</sup> *Matter of Brooks v. Hemingway*, 107 Misc. 2d 190, 192-93, 433 N.Y.S.2d 551 (1980).

<sup>8</sup> See *Koivisto v. Davis*, 277 Mich. App. 492, 493, 497, 745 N.W.2d 824 (2008) (victim’s response to dogs’ violent behaviors cannot be considered ‘provocation’ for the dogs biting victim); *Giandalone v. Zepieri*, 86 Misc. 2d 79, 80, 381 N.Y.S.2d 621 (1976) (where dog attacked first, victim’s action did not “provoke” dog).



remotely aggressive, except for the few seconds when Bo is actively attacking. For much of the video leading up to Bo's charge, the Stone dog has his back turned to Bo and Mr. Stratis. The dog makes no head or body movement to indicate he was even barking until Bo is in his face, nor do the videos other than D3 that have audio demonstrate barking. Even well after Bo's charge, when Bo is back inside the Stratis fence, Bo comes at the main gate barking at Mr. Stone and his dog, while the Stone dog still just sits there passively on the gravel road. Ex. A7. Similarly, as Mr. Stratis and Mr. McMillan trade post-incident insults, the Stone dog just stands around before laying down. Ex. A12. Bo going after the Stone dog on June 10 does not remotely approach legal provocation.

47. Animal Services easily meets its burden of showing that, on June 10, Bo performed acts endangering people and/or their animals, without legal provocation.
48. Normally, a viciousness analysis is a two-part inquiry, with the violation framed as “[a]ny animal that has exhibited vicious propensities (which Bo did on June 10) and constitutes a danger to the safety of persons or property off the animal’s premises or lawfully on the animal’s premises.” KCC 11.04.230.H. In select cases we have found, despite an unprovoked bite/attack on a given day, extenuating circumstances such that Animal Services has not proven that the animal qualifies as a danger. Here we find that Bo constitutes a danger. However, Bo constituting a danger was already determined once the window for appealing Bo’s 2018 viciousness designation closed.
49. Animal Services has proven another viciousness violation.

### *Threatening*

50. Is Bo a “domesticated animal that habitually snaps, growls, snarls, jumps upon or otherwise threatens persons lawfully using the public sidewalks, streets, alleys or other public ways”? This issue is more complex than it might seem on first read. While Bo did much more than threaten or snap at Mr. Stone on June 10—he actually bit him—it is not so clear there was another qualifying event. Because of the “habitually” language, we have required at least two threatening events in a public area to sustain a violation.
51. We know that on September 8, 2018, Bo bit a canvasser without legal provocation. (By definition, the bite was not provoked, since that would be inconsistent with the viciousness standard described above.) And we know that Bo left the property and followed the canvasser. But it is not clear, reading the canvasser’s description, that Bo snapped, growled, snarled, jumped upon or otherwise threatened the canvasser while the canvasser was on a public way. It is equally plausible that Bo bit the canvasser on the arm and leg while Bo was still on the Stratis property, and that Bo “then followed [the canvasser] several blocks as [the canvasser] tried to leave the scene.” Ex. D13 at 002. Merely following the canvasser would not, by itself, necessarily be threatening behavior on a public way.
52. Similarly, Mr. Palomares observed Bo exiting the property and following a person on the road. But he was clear that Bo did not try to attack that person. That event does not qualify.

53. The May 14 incident with Mr. Gammons is closer to the line. Mr. Gammons was on the public right-of-way. There is disputed testimony about exactly what happened. But whether Mr. Gammons bumped Mr. Stratis (Ms. Stratis' version), Mr. Gammons threatened Mr. Stratis and was physically against him (Mr. Stratis's version), or Mr. Gammons was only next to Mr. Stratis (Mr. Gammons' version), the scene Bo encountered was Mr. Gammons right next to or even touching his owner as they engaged in at least a verbally aggressive altercation. Unlike Bo's June 10 charge against people and a dog over 25 away from Mr. Stratis, we cannot conclude with any certainty that Bo's reaction on May 14 was grossly disproportionate.
54. There were somewhat vague descriptions of other times Bo threatened someone on the public right-of-way, but not enough detail or specificity for us to reach any real findings for any day other than May 14 and June 10. Thus, Animal Services has not proven a KCC 11.04.230.G violation.

### *Removal*

55. King County seeks removal under KCC 11.04.290.A.3, which states that:

Failure to comply with any requirement prescribed by the manager [*in the 2018 notice and order*] 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.

56. As noted in paragraph 2, the Stratises had a September 2018 confinement order that required them to secure Bo in a fenced area with padlocked gates and to only let Bo off the property while on a leash and harness. Per the testimony of Mr. McMillan, Mr. Stone, and even Mr. Palomares, June 10 was not the only time Bo was off the property, without a leash, after September 2018. Only six months ago did the Stratises start locking their gates, and only then for their own safety, not even to contain Bo. They admitted Bo gets out of the property and onto the road when someone opens the gate and forgets to close it.
57. One point of contention is whether Mr. Stratis purposefully let out Bo on June 10, or Mr. Stratis simply failed to contain Bo as Bo slipped past. The video is consistent with Mr. Stone's statements that, when they saw Mr. Stratis open the gate, he yelled at Mr. Stratis not to let Bo out, with Mr. McMillan pointing at the gate seconds before Mr. Stratis let Bo out, and that Mr. Stratis moved aside to let Bo charge at them. We find it more likely than not that Mr. Stratis let Bo out on purpose, as Ms. Stratis had done a month earlier (when she concluded that Bo was the only weapon she had) than that Bo just happened to get past Mr. Stratis.
58. However, regardless of whether Mr. Stratis let Bo out on purpose or not, he failed to comply with the 2018 confinement order, and the result was Bo charging at people (or at least an animal) on public property. It endangered others and even endangered Bo, who

has at least twice been let out (at least once intentionally) to go after neighbors on the right of way and gotten kicked and hurt in the process. And June 10 was not the first time Bo got out without a leash; even if we do not count May 14, there were several other times. Animal Services had even specifically warned the Stratisses that they were required to contain Bo, lest Bo be removed. And yet June 10 happened, when the Stratisses failed again to comply with the confinement order.

59. We are the most exacting of Animal Services on removal orders, given what is at stake.<sup>9</sup> We have overturned more removal orders than we have sustained. But here Animal Services has proven convincingly that removal is warranted. We do make three modifications to the removal order.

- We have consistently interpreted the requirement to remove an animal from King County as a requirement only to remove the animal from unincorporated King County and from those contract cites where Animal Services has jurisdiction and the same legal standard applies.<sup>10</sup> While nearby cities such as Algona, Auburn, Federal Way, Milton, or Pacific might have their own restrictions related to vicious dogs, they are outside Animal Services’ jurisdiction, and thus rehoming Bo there qualifies as compliance.
- While the code requires the animal to be out of the jurisdiction within 48 hours, two days seems too short to find even a temporary new home for Bo. We will give the Stratisses two weeks to find at least provisional lodgings for Bo outside Animal Services’ jurisdiction.
- The \$1000 penalty associated with the removal order only comes due if the removal order itself (here, our modification today of the removal order) is violated. So it is important to get Bo out by November 30 and then keep him out. (As noted in paragraph 55, if Bo is found in King County or one of the contract cites after November 30, he may be seized, and the Stratisses would have no further say where, and to whom, Bo is rehomed.)

---

<sup>9</sup> *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (nature of private interest impacted is factor in determining how much process is due); Exam. R. XII.B.4 (higher standards in proceeding involving divestiture of legally cognizable rights); *Mansour v. King County*, 131 Wn. App. 255, 265, 128 P.3d 1241, 1246 (2006) (in the context of an order removing a dog from King County, “the more important the decision, the higher the burden of proof.”)


<sup>10</sup> In addition to unincorporated King County, the contract cites where the same legal standard applies 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

## DECISION:

1. We uphold Bo's running at large and viciousness violations and the associated \$550 in penalties.
2. We reverse Bo's habitually threatening persons in public violation and that \$50 penalty.
3. We uphold Bo's removal order. By **November 30, 2022**, the Stratises shall microchip Bo (if not microchipped already) and then either:
  - A. Find a potential new owner outside of unincorporated King County and outside the cities that contract with Animal Services, disclose to that person that Bo was ordered removed as a threat to public safety, have that person agree to take Bo on, actually get Bo out, and provide Animal Services both proof that this new owner lives outside unincorporated King County and those contract cities and the new owner's contact information, or
  - B. Surrender Bo to Animal Services, who will then rehome him.
4. If the Stratises successfully meet A. or B., and thereafter do not allow Bo to return to King County or a contract city, the \$1000 penalty attached to the removal order is waived. If not, the \$1000 penalty is reinstated and Animal Services may impound Bo as an unredeemable animal.

ORDERED November 16, 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 *December 16, 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 OCTOBER 26, 2022, HEARING IN THE APPEAL OF FRED STRATIS AND TARINNA PAYSENO, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V22013272-A22003065**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Thomas Gammons, Vincent McMillan Sr., Julio Palomares, Tarinna Payseno, Fred and Lydia Stratis, and Jacob Stone. 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	Protection Order, dated May 24, 2021
Exhibit no. D3	Video of June 10 incident
Exhibit no. D4	Photograph of bite
Exhibit no. D5	RASKC investigation report no. A22003065
Exhibit no. D6	Statements from Mr. Stone and Mr. McMillan
Exhibit no. D7	Notice and order for removal no. V22013272-A22003065, issued June 27, 2022
Exhibit no. D8	NVOC mailing/tracking history
Exhibit no. D9	Online Complaint form of May 14 incident by Thomas Gammons, dated May 17, 2022
Exhibit no. D10	RASKC investigation report no. A22002607
Exhibit no. D11	Appeal, received August 2, 2022
Exhibit no. D12	RASKC investigation report no. A18004535
Exhibit no. D13	Online Complaint form of September 8, 2018, incident by Charles Christian, dated September 8, 2018
Exhibit no. D14	Notice of Violation no. V18008614
Exhibit no. D15	Settlement payment receipt, October 29, 2018
Exhibit no. D16	Map of subject area
Exhibit no. D17	Photograph of Mr. Stratis's gate

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

Exhibit no. A1.	Response to motion to dismiss on timeliness, submitted September 18, 2022
Exhibit no. A2.	Video of Mr. Stone and Mr. McMillan near the bushes
Exhibit no. A3.	Video of black vehicle driving in front of the Stratis home
Exhibit no. A4.	Video of Mr. Stratis near the front gate
Exhibit no. A5.	Video of Mr. Stone and Mr. Stratis arguing across the fence
Exhibit no. A6.	Video of Mr. McMillan shouting to Mr. Stratis
Exhibit no. A7.	Video of Mr. Stone on the phone
Exhibit no. A8.	Video of Mr. Stone with unleashed dog
Exhibit no. A9.	Video of Mr. Stone with unleashed dog
Exhibit no. A10.	Video of Mr. Stone on the phone
Exhibit no. A11.	Video of white and black vehicles stopping in front of the Stratis home
Exhibit no. A12.	Video of Mr. McMillan shouting to Mr. Stratis
Exhibit no. A13.	Video of Mr. Stratis attempting to open the front gate
Exhibit no. A14.	Facebook post from Jacob Stone

November 16, 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. **V22013272-A22003065**

**FRED STRATIS AND TARINNA PAYSENO**  
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 November 16, 2022.



---

Jessica Oscoy  
Office Manager

**Eykel, Chelsea**

Regional Animal Services of King County

**Gammons, Thomas**

**McMillan, Vincent Sr.**

**Palomares, Julio Mr.**

**Stone, Jacob**

Hardcopy

**Stratis, Lydia**

**Tarina Payseno, Fred Stratis**

Hardcopy