

September 13, 2022

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

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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file nos. **V22013280 and V22013290**

**BRYAN SERRANO**

Animal Services Enforcement Appeal

Activity no.: A2003277

Appellant: **Bryan Serrano**

[REDACTED]  
SeaTac, WA 98168

Telephone: [REDACTED]

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

Overview

1. Bryan Serrano appeals a violation notice for his dog, Puffy, making excessive noise for a fourth time, and he appeals an order to remove Puffy from King County. 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 uphold the violation notice but overturn the removal order.

### Background

2. Since 2021, Megan Snyder has filed five complaints with Regional Animal Services of King County (Animal Services) for Puffy consistently making excessive noise. Exs. D2, D7, D9, D13, D17.
3. Animal Services issued Mr. Serrano three violation notices for Puffy's noise in 2021, none of which were appealed. Exs. D10, D14, and D18. Animal Services issued Mr. Serrano a fourth violation notice on June 25, 2022, followed two days later with an order to remove Puffy from King County. Exs. D4-D5.
4. Mr. Serrano timely appealed the latest violation notice and the removal order. Ex. D19. We went to hearing on August 29 and provided Mr. Serrano with a Spanish interpreter.

### Hearing Testimony

#### *Testimony of Steve Nickelson*

5. Animal Services dispatched Ofc. Nickelson and Ofc. Wilson to the Serrano residence on June 25. They arrived at about 10:05 a.m. They parked up the street and about four car lengths away from the Serrano driveway. Ofc. Nickelson rolled down his window and could hear a dog barking continually until he got out of his vehicle at around 10:40 a.m.
6. When the officers walked to the Serrano property, Ofc. Nickelson noticed that the front property had cyclone type fencing and the property adjoining the neighboring property was fully fenced. Through the Serrano fence, Ofc. Nickelson was able to see a small white dog barking. It was the same bark he heard for over thirty minutes while inside the vehicle (Puffy). He did not get a good enough view of the dog to see the exact breed or whether it was wearing an anti-bark collar.

#### *Testimony of Megan Snyder*

7. Ms. Snyder lives two houses away from the Serrano residence. She testified that on numerous occasions she has heard a continuous, loud, sharp, barking; when she follows the noise, it comes from the Serrano property. She can see a small white dog from underneath the Serrano fence. Ms. Snyder has confronted Mr. Serrano about the excessive barking, and Mr. Serrano has in the past addressed it, at least temporarily. However, the issue then returns shortly after, and Ms. Snyder has continued to hear the single, shrill barking from the Serrano household.
8. Since January, Puffy has barked a shorter amount of time, but the Friday before our hearing, the barking was all day; she did not submit video because it was past the exhibit deadline.<sup>1</sup> The entire Serrano household has been unresponsive to Ms. Snyder's complaints. If they do make face-to-face contact, they behave aggressively. Ms. Snyder has seen Puffy loose outside, so she recognizes that Puffy is the dog making the

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<sup>1</sup> We note that a prehearing exhibit submittal deadline would not apply to evidence that could not have been discovered and submitted before the deadline, such as video of noise occurring *after* the deadline.

excessive noise. She acknowledges that there are two Chihuahuas and other dogs that live in the neighborhood, but those dogs bark for small amounts at a time and are not excessive enough to warrant a complaint.

9. Ms. Snyder has tried closing her windows to minimize the noise, but with the hot temperatures, that is not feasible. Even with the windows closed and white noise in the background with the AC turned on, people on her calls still hear the barking. She has been told on calls to quiet her dog down, and she then needs to explain that it is not her dog. She has even received negative reviews from executives because of the disruptive barking during work calls.
10. With the windows open she can hear the barking throughout her home. The barking seems to be consistent when someone leaves the dog outside, typically between four to six thirty in the morning. Ms. Snyder also has small children whose sleeping schedule is disrupted by the barking.
11. Ms. Snyder thinks it would be reasonable for a dog to bark when playing or exercising, but Puffy's barking is consistent for an hour or two at a time, sometimes spanning two or three days in a row. And it does not appear to be the sound of Puffy playing, engaged, or suddenly reacting to a specific event, but just a consistent cadence of barking while being left alone. She only considers a daytime barking episode unreasonable when it exceeds 30 minutes.
12. Last month, Ms. Snyder went to the Serrano residence to request that they turn their post-10 p.m. music down because it was so loud it was rattling stuff on her shelves. She was met with hostility, and soon thereafter Mr. Serrano's wife and her friend were banging on her door and grabbed Ms. Snyder until Mr. Snyder came out. Ms. Snyder called the police the following day. On other occasions, Mr. Serrano's guests have parked in her driveway, blocking her access to leave, and missing prenatal appointments or being late to pick up her daughter.

*Testimony of Bryan Serrano*

13. Mr. Serrano has lived in his residence for six years and claims that Ms. Snyder is lying and over-exaggerating the noise complaint, as no one else closer to his property has filed a complaint or complained to him about excessive barking. Mr. Serrano acknowledges that in the first two complaints in 2021 Puffy was excessively barking, and he is unsure about the third 2021 complaint because he did not witness it. However, he also states that Puffy is small, almost always inside the house, and cannot possibly create that amount of barking noise that Ms. Snyder claims. Prior to the third complaint, Mr. Serrano spoke with Mr. Snyder about Ms. Snyder's behavior – coming to his house banging on his door or screaming. Anytime someone knocks on the door, Mr. Serrano's daughters think it is Ms. Snyder coming to yell at them again.
14. In December 2021, Ofc. Carlson from Animal Services came to the Serrano residence when Puffy was outside, but Mr. Serrano did not think it was a problem because he knew that the complaints were coming from a single person (Ms. Snyder). He felt that

regardless of what he did to resolve the issue, it would always be a problem for Ms. Snyder. Mr. Serrano purchased an anti-barkcollar for Puffy this January.

15. Mr. Serrano argues that Ofc. Nickelson could not have seen Puffy unless he stood on a chair and looked over his fence and only then would Puffy have started barking. That day his security system was broken, but has since then fixed it. That day Puffy was not wearing his anti-barkcollar.
16. Mr. Serrano opines that Ms. Snyder's noise complaints are just a way for her to create additional problems for the Serrano household, due to a history of other personal problems unrelated to noise. There are other dogs in the neighborhood that also bark. Ex. A2b. Ms. Snyder is constantly harassing the Serranos. The day Ms. Snyder claims to have been harassed by Mr. Serrano's wife, the police report proves she was lying. Mr. Serrano did not appeal the first three violations because he acknowledges he may have mistakenly let Puffy outside those times. However, he opines Animal Services may be siding with the Snyders and the complaints could be interpreted as a whim or hate crime against his family.
17. Mr. Serrano has had Puffy since he was a puppy; his daughters have personal trauma and Puffy is their support animal; they would be devastated if Puffy was removed from their home.

#### Legal Standards

18. In V22013280, Animal Services asserts a fourth violation of KCC 11.04.230.J., which defines as a nuisance "Any animal that howls, yelps, whines, barks or makes other oral noises to an unreasonable degree, in such a manner as to disturb a person or neighborhood," with the dog left outside and consistently barking.
19. We draw a stark distinction between nighttime barking and daytime barking, construing section .230.J consistently with the general County noise code, which makes numerous daytime v. nighttime distinctions.<sup>2</sup> That the *timing* of a noise matters significantly is not controversial, nor new. For example, as one pre-Civil War noise case described it, "The peace of Sunday may be disturbed by acts which, on other days, cannot be complained of." *Commonwealth v. Jendell*, 2 Grant 506, 509 (Pa. 1859). Replace "Sunday" with "midnight" and "on other days" with "noon," and that proposition remains true 163 years later. Animal Services carries a higher burden for appeals involving daytime noise (meaning after 7:00 a.m. on weekdays/9:00 a.m. on weekends and before 10:00 p.m. every evening) than nighttime noise.

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<sup>2</sup> KCC 11.04.230.J and KCC chapter 12.86 were jointly amended by Ordinance 18000 in 2015. The noise code lists numerous sounds exempt from noise code limitations between 7:00 a.m. (9:00 a.m. on weekends) and 10:00 p.m. KCC 12.86.510. In that same ordinance, the Council amended the law to explicitly add that, "The hour of the day at which the sound occurs may be a factor in determining reasonableness." Ord. 18000 at § 72 (codified at KCC 12.86.410.A.). Although decibels are not determinative, from 10 p.m. and 7:00 a.m. (9:00 a.m. on weekends) the maximum permissible sound levels are reduced by ten decibels. KCC 12.86.120.A. Ten decibels may not seem like much; however, reducing the decibel level by 10 dBs halves the perceived loudness. <http://www.siue.edu/~gengel/ece476WebStuff/SPL.pdf>.

20. While the noise need not disturb a neighborhood (the code standard being disturbing a person *or* neighborhood), in analyzing whether noise truly “disturbs,” our Court reminds us to focus on an objective “unreasonableness” standard, and to not allow any given complainant to make a “subjective determination” of a noise violation. *City of Spokane v. Fischer*, 110 Wn.2d 541, 544–45, 754 P.2d 1241 (1988). Similarly, our Court instructs us to guard against measuring conduct “by its effect on those who are inordinately timorous or belligerent.” *Seattle v. Eze*, 111 Wn.2d 22, 29–30, 759 P.2d 366 (1988) (citations omitted). And in looking at both “unreasonable” and “disturb,” we review the steps an appellant took to control the noise and the steps a complainant took to mitigate the noise’s impact. *See, e.g., State v. Acrey*, 148 Wn.2d 738, 748-49, 64 P.3d 594 (2003) (“reasonable” depends on balancing competing interests).
21. In V22013290, Animal Services seeks removal under KCC 11.04.290.B.1, which states that:
- Any animal constituting a public nuisance as provided in this chapter shall be abated and removed from the county by the owner or by the manager of the regional animal services section, upon the receipt of three notices and orders of violation by the owner in any one-year period, though this removal procedure shall not apply to the vicious animal removal procedure set out in K.C.C. 11.04.290.A.3. Where it is established by record in accordance with this chapter and no finding was entered showing that the owner will be able to provide reasonable restraints to protect the public from repetitions of violations, the manager of the regional animal services section shall notify and direct the owner of the animal to abate or remove the same from the county within ninety-six hours from the notice....
22. 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

#### *V22013280—Fourth Noise Violation*

23. While Mr. Serrano seemed to waiver between acknowledging the barking problem and claiming that Ms. Snyder lying and exaggerating, Mr. Serrano at times agreed Puff barked to an unreasonable degree in 2021. More to the point, Puffy’s first three violation notices from 2021 were not appealed, so they became fixed facts. KCC 20.22.080.H. Thus, our question is not whether Puffy is an animal that barks to an unreasonable degree, so as to disturb a person or neighborhood, but whether, in 2022, he *continued* to bark to an unreasonable degree so as to disturb a person or neighborhood, as he had repeatedly done in 2021.

24. Mr. Serrano took some steps to curb Puffy's barking after receiving the third violation notice in December 2021, including purchasing a bark collar and keeping Puffy inside more. Ms. Snyder noted that Puffy's long-duration barking lessened for a while, but later resumed. So, the question is whether the barking rose again to a level we would consider a violation.
25. Mr. Serrano described videos he has that proves Ms. Snyder is volatile and comes to his door. That would have been helpful; as noted above, the Court instructs to ensure noise is not measured by its impact on an unusually belligerent person. However, he did not submit any of those. Such video would be helpful evidence, though not necessarily dispositive. Ms. Snyder asserted that Puffy barking for hours at a time, especially when she had a newborn, had devastated her mental health. So, if we viewed video of Ms. Snyder banging on doors and behaving seemingly irrationally, we would have needed to assess whether it was because she started out overly sensitive and prone to hostility, or the barking drove her to that. Nevertheless, such video would have been evidence in Mr. Serrano's favor, but it was not submitted into the record.
26. Similarly, Ms. Snyder submitted multiple videos to Animal Services along with her earlier complaints. Because those earlier violations were adjudged valid (when Mr. Serrano chose not to appeal the violation) and thus not up for debate in today's cases, Animal Services did not forward them to us. In a future dispute, fresh video of post-June 2022 barking would be helpful.<sup>3</sup>
27. One of the videos Mr. Serrano submitted is marginally helpful to his case. Ex. A2a. It shows he and his family exiting the front door, while Mr. Serrano goes to the fence and films Puffy, who stays quiet for almost five minutes until Mr. Serrano heads to his car. However, Mr. Serrano is outside and only a few feet away. The scenario Ms. Snyder described was Puffy being left *alone* outside for hours and at a time, and then barking incessantly. Mr. Serrano outside and near Puffy would not be likely to elicit the kind of barking Ms. Snyder was concerned about or Ofc. Nickelson observed on June 25.
28. The other video Mr. Serrano submitted, showing a neighbor's dogs barking actually cuts sharply *against* him and in Ms. Snyder's favor. Ms. Snyder testified that there are other dogs in the neighborhood that bark, but bark for only short durations. That is *exactly* what the video shows. Ex. A2b. Two small dogs next door to the Serranos see something off-screen that catches their attention, and they bark loudly for about 50 seconds. Then they halfheartedly bark for about 15 seconds more, before they stop entirely, while the video keeps going and the Serranos keep talking as the dogs stay silent. That is normal dog behavior—dogs reacting excitedly to an external stimuli, then stopping their barking relatively quickly. It is in stark contrast to the unrelenting barking Ms. Snyder and Ofc. Nickelson described Puffy making over an extended period.
29. In the end, we find that, while the Serranos have made some improvements, in 2022 Puffy continued to bark to an unreasonable degree, in such a manner as to disturb a person or neighborhood. We uphold the violation.

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<sup>3</sup> V22013280 was issued at the end of June.

*V22013290—Removal Order*

30. Mr. Serrano notes that Puffy is not a pit bull or dangerous animal, as Ofc. Nickelson readily conceded. There are several code provisions that authorize removal for vicious dogs, even from a first-time attack, or if a vicious dog is not contained after a confinement order is issued, or if the dog bites someone twice in two years. KCC 11.04.290.A.1.f.1, .A.2.e, A.3 & B.2. But that is *not* the subsection under which Animal Services seeks Puffy’s removal. Rather, it is the subsection quoted above, involving an animal that receives three *nuisance* violations within a one-year period. And Puffy now has four nuisance violations in a one-year period. Exs. D10 (July 2021), D14 (August 2021), D18 (December 2021) & D4 (June 2022).
31. Thus, our question is whether Mr. Serrano has shown that he “will be able to provide reasonable restraints to protect the public from repetitions of violations.” We are somewhat skeptical. Mr. Serrano seemed to be in a fair amount of denial about the duration of Puffy’s barking and the impact it was having. In the end, the most persuasive piece Mr. Serrano offered was the impact taking Puffy away would have on his daughters, especially the daughter that had recently experienced serious trauma. Now that Mr. Serrano understands that his ability to control Puffy’s barking is all that stands in the way of his daughters being separated from their beloved pet, we expect him to be extra motivated to up his game and keep the barking under control.
32. This also seems a solvable problem. This is not a scenario where Puffy is engaged and making noises while he plays with people or other dogs; instead, Ms. Snyder and Ofc. Nickelson described a dog left alone outside just barking consistently.<sup>4</sup> The video Mr. Serrano showed of him standing outside near Puffy and Puffy staying silent seems to illustrate that if someone is outdoors with Puffy, Puffy will not go off. Ex. A2a. So, if Puffy needs to go outside, have someone, such as one of his daughters, accompany Puffy and keep him engaged while he is in the yard. And if the whole family needs to leave, take Puffy with them or secure him inside. And if there is a scenario where they simply must leave Puffy outside for an extended duration and no one can be with him, then do so only after they have triple-checked that the barking collar is secure, charged, and working properly, although relying solely on a barking collar carries some risk.
33. Mr. Serrano will need to be extra cautious between now and the end of 2022. Because if Puffy earns another violation in 2022, we may be right back here again on a removal order. The outcome next round might be different, and Mr. Serrano would need to have a very difficult conversation with his daughters. So, the remainder of 2022 would *not* be a great time to leave Puffy alone and outside with nothing but a bark collar as security. (Because Puffy’s first three violations were from 2021, if something went wrong and he earns another noise violation in 2023, that would no longer be a third or greater violation in a one-year period. There would still be a monetary penalty, but a KCC 11.04.290.B.1 removal order only applies for a third violation in a one-year period.)

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<sup>4</sup> We have seen in past disputes, that barking that appears to stem from agitation and distress, rather than from engaged play, is qualitatively more disturbing to people. That is true across the board. Switching from the canine to the human context, the sound of children screaming while they play is and thus far easier to ignore, and far less disturbing, than even softer, shorter duration sounds of a child in distress.

DECISION:

1. We deny the appeal for the V22013280 fourth noise violation.
2. We grant the appeal for the V22013290 removal order.

ORDERED September 13, 2022.



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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 *October 13, 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 AUGUST 29, 2022, HEARING IN THE APPEAL OF BRYAN  
SERRANO, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NOS.  
V22013280 AND V22013290-A22003277**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Steve Nickelson, Bryan Serrano, and Megan Snyder. 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 May 13, June 11, and June 24 (2022) incidents by Megan Snyder
Exhibit no. D3	RASKC investigation report no. A22003277, dated June 24, 2022
Exhibit no. D4	Notice of violation no. V22013280-A22003277, issued June 25, 2022
Exhibit no. D5	Notice and order for removal no. V22013290-A22003277, issued June 27, 2022
Exhibit no. D6	RASKC investigation report no. A21002672, dated June 11, 2021
Exhibit no. D7	Online Complaint form of June 8 and June 11 (2021) incidents by Megan Snyder, signed June 11, 2021
Exhibit no. D8	RASKC investigation report no. A21003076, dated July 1, 2021
Exhibit no. D9	Online Complaint form of June 30 and July 1 (2021) incidents by Megan Snyder, signed July 1, 2021
Exhibit no. D10	Notice of violation no. V21012277-A2003076, issued July 4, 2021
Exhibit no. D11	NVOC mailing/tracking history
Exhibit no. D12	RASKC investigation report no. A21003906
Exhibit no. D13	Online Complaint form of August 6-8, 2021, incidents by Megan Snyder
Exhibit no. D14	Notice of violation no. V21012465-A21003906, issued August 28, 2021
Exhibit no. D15	NVOC mailing/tracking history
Exhibit no. D16	RASKC investigation report no. A21006253, dated December 15, 2021
Exhibit no. D17	Online Complaint form of December 14, 2021, incident by Megan Snyder, signed December 14, 2021
Exhibit no. D18	Notice of violation no. V21012766-A21006253, issued December 15, 2021
Exhibit no. D19	Appeal, received June 27, 2022
Exhibit no. D20	Map of subject area

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

Exhibit no. A1	Email with photographs from Nicole Martinez, dated July 29, 2022
Exhibit no. A2	Two videos of neighbors’ dogs barking

September 13, 2022

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file nos. **V22013280 and V22013290**

**BRYAN SERRANO**

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 September 13, 2022.



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Jessica Oscoy  
Office Manager

**Eykel, Chelsea**

Regional Animal Services of King County

**Martinez, Nicole**

**Nickelson, Steve**

Regional Animal Services of King County

**Serrano, Bryan Mr.**

Hardcopy

**Snyder, Megan**

Hardcopy