

March 16, 2023

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
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www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V22013762-A22005967**

ELISE SUAZO AND STEPHEN MORSE

Animal Services Enforcement Appeal

Activity no.: A22005967

Appellants: **Elise Suazo and Stephen Morse**

[REDACTED]
Bellevue, WA 98007

Telephone: [REDACTED]

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King County: Regional Animal Services of King County
represented by **Chelsea Eykel**
Regional Animal Services of King County
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Kent, WA 98032
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FINDINGS AND CONCLUSIONS:

Overview

1. Elise Suazo and Stephen Morse appeal a violation notice for their dogs, Splash and Finn, qualifying as vicious and needing to be confined. 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 reverse the viciousness designation and order for Finn. We uphold it for Splash, but we reduce the monetary penalty, allow for Splash's continued use of off-leash dog parks, and provide an avenue by which Mr. Morse can potentially get Splash's viciousness designation removed.

Background

2. On November 14, 2022, Effat Sadafi filed a complaint for Finn and Splash attacking her. Ex. D2. She provided photographs of her injuries. Ex. D4.
3. On November 15, 2022, Animal Services issued Elise Suazo a violation notice. Ex. D6. Ms. Suazo timely appealed. Ex. D7. Ms. Suazo explained that she is Finn’s owner and Stephen Morse is Splash’s owner. They do not appeal the running at large violations.
4. We held a hearing on March 2 and provided Ms. Sadafi with a Farsi interpreter.

Hearing Testimony

Testimony of Shapoor Hariri

5. In [August] 2022, Shapoor Hariri was walking at Robinswood park when he noticed two unleashed dogs [Finn and Splash] in front of Ms. Suazo’s house. Mr. Hariri looked around for a safe location because the dogs were coming towards him. He went into his neighbor’s driveway [Olivia Mirea] as the dogs came within an inch from his leg, as if trying to hump him; he yelled at the dogs “no!” but they did not listen and continued barking. A couple of times the dogs came so close to him that Mr. Hariri thought they were going to bite his shins or toes.
6. Mr. Hariri turned to walk towards Ms. Mirea’s front door for safety when suddenly the yellow dog [Splash] came at him from behind and Mr. Hariri turned around, yelling at Splash for about 20-30 seconds. Ms. Mirea’s husband then came outside and the dogs retreated back into the street. Splash was more aggressive, coming to Mr. Hariri first, followed by the brown dog [Finn].

Testimony of Olivia Mirea

7. Olivia Mirea was at home with her husband during the August 2022 incident involving Mr. Hariri. On that day Ms. Mirea heard loud screaming in front of her driveway. Her husband went outside to investigate the noise. Ms. Mirea did not actually witness the event and does not know exactly what happened, but she just remembers hearing a loud commotion outside; her recollection is blurry. She does not recall hearing the dogs barking, just screaming from both Mr. Hariri and her husband.

Testimony of Effat Sadafi

8. For the November 2022 incident, Effat Sadafi [Mr. Hariri’s wife] was outside in the neighborhood. She heard Ms. Suazo yelling for Finn and Splash. Ms. Sadafi saw [Finn] close to her next door neighbor’s home and [Splash] in her front yard. Within a matter of seconds, Splash came next to her, followed by Finn. Splash jumped on her shoulder. Ms. Sadafi raised her arm to protect her face because Splash’s mouth was close to her; she felt a dog “kind of” bite her hand over her thick jacket, though she cannot identify which dog caused all her injuries. The injury to her face, though, was caused by Splash.

9. She also felt the dogs biting at her right hip. Finn then jumped on her shoulder. The dogs are about 65 pounds each, and Ms. Sadafi is 100 lbs. The dogs knocked her down, and she landed on her left hip; Ms. Sadafi got on her knees, covering her head and face. Ms. Sadafi saw Ms. Suazo and Ms. Suazo's older son, Anthony, yelling for the dogs, but the dogs would not listen to them. Eventually Anthony grabbed the dogs. Ms. Sadafi was very scared. She had multiple injuries either from bites or scratches. Her injuries were not from falling on the rocks. Later, Ms. Suazo's cousin [Stephen Morse] came to her door to apologize.
10. Whenever Ms. Sadafi opens her car door in front of her house, she hears the dogs barking outside of their backyard. She fears them being loose again and does not feel safe. Her left hip is still painful. Ms. Sadafi goes walking and running and is strong for her age.

Testimony of Elise Suazo

11. For the August 2022 incident, Finn and Splash were in the backyard when Ms. Suazo's nine-year-old special-needs son climbed up and unlatched the gate. Ms. Suazo received a text message from her neighbor alerting her that her dogs were outside. Mr. Hariri told her that Finn and Splash chased him. By the time she heard that, Finn had already returned home on his own but Ms. Suazo still had to locate Splash. Ms. Suazo had spoken to Mr. Hariri prior to this incident and understood that he was afraid of dogs.
12. After this incident Ms. Suazo immediately discussed preventative steps with her household to prevent a similar incident. This included padlocking the gates (exhibit A5 at 002) and not allowing the dogs inside the main part of the house without an adult present. (There is a part of the house the dogs are freely allowed in, but it has a childproof lock on the door.) When guests come over, the dogs are secured in the backyard; confinement requirements have been communicated to guests as well. Ms. Suazo has processes in place so her daycare children do not open the gates.
13. For the November 2022 incident, Ms. Suazo and her boyfriend returned home from grocery shopping. She went inside the house to ensure the dogs were secured before unloading the groceries. The dogs were in the backyard with the door closed. Ms. Suazo went back outside and saw her neighbor [Adria Adriensen]; they started chatting. Within seconds Splash and Finn came out through the front door and ran across the street to sniff the grass. Ms. Suazo quickly called to them; however, the dogs spotted people. The dogs do not go outside unleashed, so they became excited that day.
14. Ms. Suazo saw Splash running towards Ms. Sadafi at the end of the street. Ms. Sadafi appeared scared and slowly positioned herself down towards the rocky ground. Ms. Suazo testified that Ms. Sadafi was not pushed down to the ground by the dogs and that her injuries may have been caused by the rocks on the ground. Ms. Suazo saw Splash reach Ms. Sadafi first, followed by Finn, but she never saw Finn make any contact with Ms. Sadafi. Ms. Suazo also did not see Splash jump over Ms. Sadafi, but instead it seemed that Splash was greeting her.

15. Ms. Suazo is aware that the dogs are not allowed to be off leash, which is why she tried calling them back, but she did not think that Ms. Sadafi was in any danger. Her older son, Anthony, quickly ran to the dogs, grabbing them by the collar to obtain control. Ms. Suazo has a compound fracture on her finger, so grabbing the dogs is challenging for her. After Mr. Sauzo seized the dogs, Ms. Suazo was immediately concerned about Ms. Sadafi and so asked how she could help. Ms. Sadafi called the police and Ms. Suazo talked with the officer. Ms. Suazo allowed the police officer to meet the dogs in the backyard. The dogs became scared when the officer put his hand towards their face.
16. Ms. Suazo had a dog trainer for Finn, but the trainer was unable to continue with the classes, so she asked around for other recommendations. Finally, she found a trainer in November, and in December the trainer completed an evaluation at a dog park and they have been working on voice control and on how to properly greet people. Ex. A6 at 001.
17. Ms. Suazo and Mr. Morse have three dogs total, and they treat them like family members. Ms. Suazo is a single mother of three kids. Ms. Suazo has a home daycare and the dogs are around children and adults frequently. The dogs have not had any history or propensity of viciousness or aggression.

Testimony of Adria Adriensen

18. Adria Adriensen testified that for the November 2022 incident, she was coming home from a walk with her husband and daughter. She encountered Ms. Suazo and stopped to chat.
19. Suddenly Finn and Splash excitedly ran past them to the other side of the street. Splash ran towards Ms. Sadafi and Finn followed behind. There was a pick-up truck parked nearby that limited Ms. Adriensen's view of Ms. Sadafi; she could only see Ms. Sadafi's head and not her body. Ms. Adriensen saw Splash disappear beyond the truck and then saw him jump up (over the truck hood), but did not see if there was physical contact. Finn did not venture beyond the stayed in front of the pick-up truck, so she was able to see Finn staying back the entire time.

Testimony of Anthony Suazo

20. For the November 2022 incident, Anthony Suazo testified that he let the dogs inside the designated area of the house, unaware that the front door was open and that his mother was in the middle of unloading groceries. They have a busy household and there are miscommunications at times. They know that the dogs like to wander in the front yard, so they are never left outside without a leash. He was concerned for the dogs' safety, so he ran out immediately because he was concerned they would get hit by a car.
21. Mr. Suazo saw Splash go towards Ms. Sadafi, with Finn trailing behind. Splash got on Ms. Sadafi's shoulders; Mr. Suazo acknowledges this is a bad habit, but they do this in a playful manner. Ms. Sadafi seemed scared and she dove on the ground as if to protect herself. The dogs did not tackle her. Splash started barking, but he was just being playful and curious. Mr. Suazo stated that he had a crystal clear view of the incident the entire

time. From the time when the dogs escaped to when he retrieved them, about ten seconds elapsed.

Testimony of Others

22. Stephen Morse, Miae Armori, and Cynthia Goedhart testified that their letters they provided as exhibits are true. We accept those as testimony.

Legal Standards

23. Animal Services asserts that both Splash and Finn qualify as “vicious,” defined as, “performing the act of... 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 “[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” qualifying as a nuisance. BMC 8.04.060.BB, .300.H.
24. 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

Viciousness Violations

25. Ms. Sadafi’s testimony was all over the map on the biting question. The day of the incident she told the investigating police officer that they “possibly” bit her. Ex. D5 at 002. The statements she filed the following day was that she was “bitten by them on [her] arm and leg and [her] nose.” Ex. D2 at 003 (emphasis added). Her statement a few days after that to Animal Services was that the first dog jumped on her [which would have been Splash], but it was the second dog [which would have been Finn] that grabbed at her arm. And at hearing she testified that she “kind of” felt Splash bite her arm through her jacket.
26. The parallel marks to her forearm, which closely resemble jaw marks we have images of hundreds of cases, more likely than not are from Splash’s teeth and not from Splash’s nails or the ground, especially since Ms. Sadafi was wearing a puffy jacket. Ex. D4 at 006. Her hip abrasions could be either bites or from the ground. Ex. D4 at 002-03. Given the location of the scratch to her face (on an indented portion, not the portion that would scrape the ground) and undisputed testimony and statements that Splash leapt up at Ms. Sadafi and had his paws on her chest, we find the nose cut more likely than not from Splash’s nails. Ex. D4 at 005; Ex. A2 at 001.
27. However, the case does not actually turn on whether or not an injury to Ms. Sadafi’s forearm was from a bite or from something else. While an unprovoked bite is the easiest

way for Animal Services the show that a dog meets the definition of vicious, the standard is “performing the act... endangering the safety of any person...” which Splash did, certainly in November and likely in August as well.

28. And while, in discussing the interaction with the investigating Bellevue police officer, Ms. Sauzo said her dogs became scared when the officer put his hand towards their face, that is not what the officer reported. He noted that he allowed Finn to sniff his hand, and Finn did not show any signs of aggression. However, when he allowed Splash to sniff his hand, Splash tried to bite him. Ex. D5 at 002.
29. In normal parlance, we speak of “vicious” as meaning malicious or spiteful or morally depraved. However, the legal standard we have to apply is quoted above. There are no elements related to whether the animal did something with malicious intent, whether the animal behaves aggressively most of the time, or whether the animal’s owners are responsible or irresponsible people, only whether the animal performed endangering acts and whether the animal constitutes a danger. It is great, for example, that Splash (and Finn) seems to be so prosocial around visitors and in a dog parks. *See* Exs. A1, A6. But that is not what Mr. Hariri or Ms. Sadafi experienced on separate occasions. It is disturbing in fact, that the Sauzos referred to Splash’s behavior as a “greeting” or “playful”—there was nothing playful or welcoming in August or November. We return to Splash’s future below, but for now we find that Splash constitutes a danger to people off Splash’s property, and we uphold his viciousness violation.
30. The case against Finn is much weaker. All witnesses agreed Splash led the way in August and November, and the investigating police officer also drew stark distinction. *See also* Ex. A2 at 001. Ms. Sadafi testified that Finn (along with Splash) made contact with her, but, as noted above, her testimony was somewhat inconsistent. We found Ms. Adriensen the most credible on this topic. While, as a neighbor and a friend, she would have an incentive to protect both Splash and Finn, she readily agreed that Splash ran at Ms. Sadafi and jumped up to get at head level with Ms. Sadafi. But she was equally clear that Finn only followed behind, and Finn did not venture behind the pickup truck (where Splash and Ms. Sadafi were) but rather stayed back. We overturn Finn’s viciousness violation.

Other Considerations

31. Ms. Sauzo and Mr. Morse asked that any violation for Splash be in Mr. Morse’s name, because Splash is Mr. Morse’s dog. That is not quite how violations work. Where a dog does something (running at large, trespassing, vicious behavior, etc.) Animal Services cites (and fines) the adult who was (or should have been) in charge at the time, even if that adult is not the dog’s owner.¹ Mr. Morse was not even around during the November 12 incident; it was Ms. Sauzo who opened the door and was unloading groceries. So yes, Ms. Sauzo was correctly cited for both Finn and Splash. But, having overturned Finn’s viciousness designation today, Ms. Sauzo does not own a vicious dog

¹ The situation is different when children are involved. If, for example, a 10-year-old was out walking a dog when the dog broke free of his leash and attacked someone, Animal Services would likely cite the parent who let the 10-year-old walk the dog, not the 10-year-old herself.

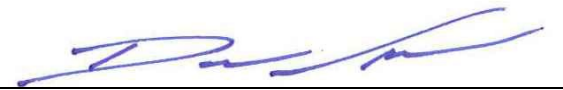
32. Ms. Suazo also asks for a reduction to the \$500 penalty associated with Splash’s viciousness violation; that seems appropriate. The November 13 incident occurred after Ms. Suazo had padlocked their gates and implemented a policy of not allowing the dogs inside the main part of the house (as opposed to a gated part) without an adult present. November 13 occurred as Mr. Sauzo brought the dogs into the ungated area of the house, unaware that Ms. Suazo had just opened the front door to bring in groceries, and he chased them down within seconds.
33. As it stands now, the compliance order would bar Splash from running in sanctioned off-leash dog parks. Testimony and neighbor statements confirmed that Splash has been a common visitor to off leash parks, without incident. Their trainer noted the importance of dog parks for dogs’ socialization process—not to mention exercise. Ex. 16 at 001. We will amend the compliance order to allow this, with certain restrictions.
34. Although the only reference to the dogs’ ages is Ms. Adriansen’s written statement that they are one-year-olds, the photos show Splash is obviously an adolescent, not a full-grown dog. Ex. A4 at 001-03. Just like the law does not treat human juveniles as it does adults, we are reticent to uphold what would essentially be a lifelong viciousness designation for Splash, especially given that his endangering behavior thus far has been towards the milder end of the viciousness continuum. We will provide an avenue (below) for Mr. Morse to get this designation removed in the future.

DECISION:

1. The running-at-large violations were not disputed.
2. We GRANT the appeal as to Finn’s viciousness violation.
3. We DENY the appeal as to Splash’s viciousness violation.
4. We REDUCE Splash’s otherwise-applicable viciousness penalty to \$200, meaning the total due is \$300 (\$200 for viciousness, plus \$50 and \$50 for the running-at-large violations).
5. We MODIFY Animal Services’ November 16, 2022, compliance order as follows:
 - A. Secure Splash in a fenced area suitable for his size when unattended and outside the home. Lock all passages with a padlock to prevent accidental release.
 - B. Restrain Splash using a leash no more than eight feet long, with a collar or harness, when taking Splash off your property. A competent and capable person must handle Splash at all times when attended outside (and Ms. Suazo noted she has had an injury hindering her ability to control Splash).
 - C. If not already completed, microchip Splash and provide the microchip number to the King County Animal Licensing Office (206) 296–2712.

- D. Keep Splash current on his rabies vaccination.
- E. Splash is allowed to run in sanctioned off-leash dog parks, provided Splash is leashed at all times, on a leash held by someone capable of controlling Splash, when not in the car or in the fenced, off-leash area.
- F. If Splash earns his Canine Good Citizenship (CGC) training certificate, Mr. Morse may present this to Animal Services. If there are no further violations in the interim, Animal Services should remove Splash’s viciousness designation.

ORDERED March 16, 2023.



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 17, 2023*. 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 2, 2023, HEARING IN THE APPEAL OF ELISE
SUAZO AND STEPHEN MORSE, REGIONAL ANIMAL SERVICES OF KING
COUNTY FILE NO. V22013762-A22005967**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Adria Adriansen, Chelsea Eykel, Olivia Mirea, Shapoor Hariri, Effat Sadafi, Stephen Morse, Elise Suazo, Miae Aramori, Cynthia Goedhart, and Anthony Suazo. 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 13, 2022, incident by Effat Sadafi, dated November 14, 2022
Exhibit no. D3	RASKC investigation report no. A22005967
Exhibit no. D4	Photograph of Ms. Sadafi’s injuries
Exhibit no. D5	Bellevue Police Report 2202-61808
Exhibit no. D6	Notice of violation no. V22013762-A22005967, issued November 16, 2022
Exhibit no. D7	Appeal, received December 11, 2022
Exhibit no. D8	Map of subject area

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

Exhibit no. A1	Character witness statements
Exhibit no. A2	Witness statements
Exhibit no. A3	Photographs of Finn
Exhibit no. A4	Photographs of Splash
Exhibit no. A5	Photographs of Google Maps and padlock
Exhibit no. A6	Appeal Dog Parks
Exhibit no. A7	Photograph

March 16, 2023

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V22013762-A22005967**

ELISE SUAZO AND STEPHEN MORSE
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 March 16, 2023.



Jessica Oscoy
Office Manager

Adriansen, Adria

Aramori, Miae

Eykel, Chelsea

Regional Animal Services of King County

Goedhart, Cynthia

Mirea, Olivia

Hardcopy

Shapoor Hariri, Effat Sadafi

Hardcopy

Stephen Morse, Elise Suazo

Hardcopy

Suazo, Anthony