

April 27, 2023

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

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Seattle, Washington 98104  
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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V23013950-A23000322**

**EVELYN GAMBOA**

Animal Services Enforcement Appeal

Activity no.: A23000322

Appellant: **Evelyn Gamboa**

[REDACTED]  
Covington, WA 98042

Telephone: [REDACTED]

Email: [REDACTED]

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

Overview

1. Evelyn Gamboa appeals a Regional Animal Services of King County (Animal Services) determination that her dog, Sadie, qualifies as vicious and must be contained. 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 Sadie's viciousness designation and compliance terms. However, we retain jurisdiction to reconsider that, if Sadie gets the necessary professional training she needs.

### Background

2. On January 24, 2023, Katrina Worley filed a complaint for an incident involving her seven-year-old child<sup>1</sup> and Sadie on January 15, 2023. Ex. D3. Ms. Worley provided photographs of her child's injuries. Ex. D4.
3. Animal Services served Linda Bolt (the child's grandmother) with the violation notice for Sadie qualifying as vicious, as Ms. Bolt was the adult supervising Sadie on January 15. Animal Services issued Ms. Gamboa a violation notice for Sadie being unlicensed, and it ordered Ms. Gamboa to contain Sadie. Ex. D5. Ms. Gamboa timely challenged the licensing violation, Sadie's designation as vicious, and the compliance order. Ex. D6.<sup>2</sup> We went to hearing on April 17.

### Hearing Testimony

#### *Child's Testimony*

4. The child testified that on January 15 she was at her grandmother's home. Ms. Bolt was sitting on one end of the couch, with Sadie's head on Ms. Bolt's leg. The child was sitting next to Sadie on the couch, petting her for about five minutes, when suddenly Sadie turned around and bit her face. The child did not recall Sadie growling prior to the bite, so she did not think Sadie did. She just recalled that turning around and seeing the inside of Sadie's mouth coming at her face.
5. The child has been around Sadie many times before, without incident.

#### *Linda Bolt's Testimony*

6. On January 15, Linda Bolt was sitting on one end of the couch and either her husband or her grandson was sitting on the other end. Sadie was in between both of them with her head on Ms. Bolt's lap. The child crept down on the floor in front of Sadie and began petting Sadie from her eyes toward the back of her neck. (Ms. Bolt recalls the child being on the edge of the couch at one point, but at another point being on the floor.) Then, for no reason, Sadie "popped" up and bit the child. Ms. Bolt does not recall Sadie making any noise at all prior to the bite.
7. Ms. Bolt had no prior concerns about Sadie's behavior, though later in March she experienced a similar incident. On that day, Ms. Bolt was sitting on the couch, with Sadie's head again on her lap. Ms. Bolt was using her son's laptop, and as her son reached over to retrieve it, Sadie snapped at him. Again, Sadie did not growl or make any noises prior to snapping.

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<sup>1</sup> Unless absolutely necessary to avoid confusion, we do not name minors.

<sup>2</sup> At hearing, Animal Services noted that it was dropping the licensing violation, so we will not discuss that further.

*Mr. Bolt's Testimony*

8. Ms. Bolt's husband testified that on January 15, he and Ms. Bolt were watching television on the couch. The child had been petting Sadie for a while, and the dog was or became lethargic and put its head on Ms. Bolt's lap. The child was still petting Sadie's head when suddenly Sadie bit her. It seemed like a warning nip, but the child's head was about an inch away and "damage was done." Sadie did not make any noise prior to the bite; it was spontaneous.
9. In March, Sadie snapped at their grandson, like a warning nip, but did not cause injury. Again, Mr. Bolt does not recall Sadie making any noises and his grandson also did nothing aggressive (other than maybe slightly brush his hand on Sadie as he reached for the laptop).

*Katrina Worley's Testimony*

10. Katrina Worley testified to the aftermath of the child's injuries. At the hospital the child had to be sedated, and the entire event was traumatic for her. The child suffered one laceration on top of her left eye (which required two stitches); she had another laceration on her bottom lip (which required three stitches). The child also had a scratch on her face, just to the side of her nose.

*Evelyn Gamboa's Testimony*

11. Evelyn Gamboa was not present on January 15. She believes that Sadie was protecting Linda; the incident on January 15 was an accident. Sadie is a 97-pound-five-year-old rescue dog that acts like a puppy. Sadie is an attention hog and will bark to get attention.

Legal Standards

12. Animal Services asserts that Sadie 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; KCC 11.04.230.H. Ms. Gamboa does dispute this.
13. 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

14. The only slight discrepancy in the testimony is whether, at the time Sadie launched her mouth at the child’s face, the child was sitting on the floor petting Sadie (as Ms. Bolt thought she recalled), or was sitting next to Sadie on the couch and petting her (as the child testified). We found the child extremely credible. For example, she stated that she did not recall Sadie growling or doing anything before Sadie launched her mouth, so she did not think Sadie did. That showed an unusual level of maturity, to recognize, essentially, “Just because I didn’t notice/don’t recall X happening does not mean I can say that X absolutely didn’t happen.”
15. We think the child was likely sitting on the couch, but that finding is not relevant to our decision. The “provocation” inquiry in animal jurisprudence focuses on how an average dog, neither unusually aggressive nor unusually docile, would react to an inciting act.<sup>3</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>4</sup> All three eyewitnesses were crystal clear that January 15 was not a scenario where the child quickly jabbed her hand at Sadie or made any sudden movements, nor did Sadie growl or express any discomfort before popping up and launching her teeth at the child’s face. The average dog would not have reacted that way, and Sadie’s response was grossly disproportional to anything going on at the time. Sadie performed an act endangering the child’s safety, without provocation. KCC 11.04.020.BB.
16. Animal Services also meets its burden of showing Sadie *currently* constitutes a danger to the safety of persons lawfully on Sadie’s premises. KCC 11.04.230.H. January 15 was not a scenario where, say, Sadie was coming back from surgery and was in such acute pain that she overreacted. Instead, even Ms. Gamboa agreed that Sadie was an attention hog who was either trying to protect Ms. Bolt or to ensure that she kept being petted. That makes it *worse*—a dog unable to judge when teeth are an appropriate response. It is dangerous that a dog’s *first* signal in a scenario like January 15 was not to whine or growl or give any other warning, but to launch her teeth at a child’s face. Our analysis would be different if Sadie was, say, a toothless Chihuahua, but Sadie is a 97-pound Rottweiler who caused multiple stitches to a seven-year-old girl. And, of course, in March Sadie snapped at another person, in a similar couch-petting scenario. We sustain Sadie’s viciousness designation.
17. However, three factors distinguish today’s case from the typical scenario where we uphold a viciousness designation.
  - Appellants (and their friends and neighbors and people who did not witness the incident) almost always offer testimonials about how sweet the dog is and how the behavior in question was uncharacteristic. But here it was the *victim’s* grandparents who first made that point: Sadie is typically a sweet dog and “just not like that.”

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<sup>3</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)).

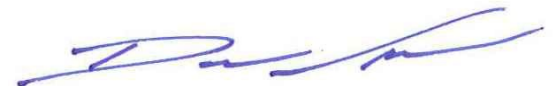
<sup>4</sup> *Stroop v. Day*, 271 Mont. 314, 319, 896 P.2d 439 (1995); *Bradacs* at 273–75; *Kirkham* at 792.

- While the *result* was terrible—stitches on a child’s face—Mr. Bolt accurately characterized it as a “nip.” If Sadie was a Pomeranian, we probably would not be here. Sadie’s size and power renders her currently a danger, but neither the January nor the March nips were examples of real violence or multiple bites, just a single nip.
  - Sadie seems less like a troubled dog with deep-seated fear or aggression issues, and more a pampered, pouty dog used to getting attention. That her pouting on January 15 led to stitches is scary, but seems a more easily curable problem than that driving most violent dog acts that come before us. And Animal Services did not argue that Sadie was a lost cause, only that Sadie needed more tools in her toolbox and needed her interactions managed to set her up for success.
18. So, while a viciousness designation is typically permanent, if Ms. Gamboa can get Sadie specific, professional training addressing the behaviors that led us here today, we provide an avenue to revisit Sadie’s viciousness designation.

#### DECISION:

1. We sustain Sadie’s viciousness designation and compliance order.
2. We retain jurisdiction until December. If Ms. Gamboa can get Sadie professional training addressing Sadie’s troubling behaviors (attention seeking, resource protection, lack of bite inhibition, etc.), and by **December 18, 2023**, submits to [hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov) the trainer’s explanation of training methods, analysis, and certification that Sadie no longer poses a biting threat in a scenario similar to the once described in January and March, we will reconsider today’s decision.

ORDERED April 27, 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 *May 29, 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 APRIL 17, 2023, HEARING IN THE APPEAL OF EVELYN  
GAMBOA, REGIONAL ANIMAL SERVICES OF KING COUNTY  
FILE NO. V23013950-A23000322**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Linda Bolt, Chelsea Eykel, Evelyn Gamboa, and Katrina and the child Worley. 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. A22000322
Exhibit no. D3	Online Complaint for January 15, 2023, incident by Katrina Worley, dated January 24, 2023
Exhibit no. D4	Photograph of child's injury
Exhibit no. D5	Notice of violation no. V23013950-A23000322, issued February 2, 2023
Exhibit no. D6	Appeal, received February 27, 2023
Exhibit no. D7	Map of subject area

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V23013950-A23000322**

**EVELYN GAMBOA**  
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 April 27, 2023.



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Jessica Oscoy  
Office Manager

**Bolt, Linda**

Hardcopy

**Eykel, Chelsea**

Regional Animal Services of King County

**Gamboa, Evelyn**

Hardcopy

**Worley, Katrina**

Hardcopy