

August 9, 2023

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

King County Courthouse
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REPORT AND DECISION

SUBJECT: Regional Animal Services of King County file no. **V23014204-A23002867**

RODELLO AND MARTHA MANUEL

Animal Services Enforcement Appeal

Activity no.: A23002867

Appellants: **Rodello and Martha Manuel**

[REDACTED]
Issaquah, WA 98029

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
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FINDINGS AND CONCLUSIONS:

Overview

1. Rodello and Martha Manuel appeal a Regional Animal Services of King County (Animal Services) designation of their dog, Coco, as vicious. 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 viciousness violation, reduce the monetary penalty, and reject Animal Services' request that we add a muzzle requirement to Coco's containment order.

Background

2. On May 4, 2023, Animal Services issued a violation notice to Rodello Manuel for his dog, Coco, qualifying as vicious and needing to be confined. Ex. D7. Mr. Manuel appealed on May 23. Ex. D8. We went to hearing on July 26.

Hearing Testimony

Testimony of Angela Phouangsavanh

3. Angela Phouangsavanh testified that on April 24 (the day before the alleged violation) she was waiting for the elevator with her six-year-old and her dog, Luka. The elevator opened and inside were the Manuels and Coco, who was going crazy. As that was her first interaction with Coco, it was difficult for Ms. Phouangsavanh to read. Coco was trying to lunge at them, but she was not sure if Coco was lunging at herself, her son, or Luka. Coco was wearing a muzzle, so Ms. Phouangsavanh did not hear him bark or growl; he might have squealed.
4. Ms. Manuel had a hard time controlling Coco on her own. Ms. Manuel left with Coco through the other side of the elevator. Ms. Phouangsavanh could still hear Coco on the other side. Ms. Phouangsavanh was scared because she was with her son and dog.
5. Ms. Phouangsavanh was not present at the April 25 incident; her boyfriend, Mr. Jucevic, was walking Luka that night. After the incident, Mr. Jucevic brought Luka back to the apartment and said Luka was attacked. They checked Luka over and saw puncture wounds on his stomach, and the tip and side of his penis was bleeding. The wound did not look like it came from nails. They were able to stop the bleeding and cleaned the area. They took photos around 30 to 60 minutes after the incident. Ex. D5. The soonest Ms. Phouangsavanh could bring Luka to the vet was April 27. The vet prescribed antibiotics.

Testimony of Rodello Manuel

6. Rodello Manuel testified that he was not present for the April 25 incident. His wife and son took Coco out that night. After the incident, Mr. Manuel visited Ms. Phouangsavanh to see if he could help. Ms. Phouangsavanh wiped the blood off Luka's belly. Luka was not bleeding profusely. Mr. Manuel looked for an open wound but did not see one. Mr. Manuel apologized for what happened.
7. The next day or two Mr. Manuel saw Mr. Jucevic, who said they brought Luka to the vet. Mr. Manuel offered to pay the bill. However, Mr. Manuel then received the violation notice and fines, which limited his ability to pay for the vet bill.
8. Mr. Manuel apologized for the incident. Coco is a small, energetic, and playful dog. Mr. Manuel believes Coco did not mean to harm Luka. He also believes Coco is not vicious. It is just his nature to be so playful. When Mr. Manuel lived in Issaquah, he brought Coco to the dog park with no issues.

9. Mr. Manuel is planning on training Coco. He spoke with a trainer who recommended they use a basket muzzle. Most of the time Coco is in a muzzle. Other times Coco is in a gentle lead collar, which allows Mr. Manuel to turn his head away.
10. Mr. Manuel is in the process of moving out of the apartment complex. Their new place will be semi-private.

Legal Standards

11. Does Coco qualify 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?
12. 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

13. In normal speech, “vicious” means malicious or spiteful or morally depraved. However, the legal standard that controls our decision (quoted in paragraph 11) contains no elements related to whether the animal did unnatural acts, did something with malicious intent, or is violent most of the time. It also contains no elements related to how the animal owner cares for their pet. The code only looks at whether the animal performed an endangering act and whether the animal constitutes a danger.
14. If a picture is worth a thousand words, the April 25 video here is worth more than that. We see both Manuel dogs calmly standing in the elevator area, with no hint of any stimulation or being worked up. At the :30 second mark the elevator opens. The Manuels’ white dog nonchalantly looks at Luka, but Coco immediately begins lunging at Luka. Ms. Manuel wisely withdraws Coco to a corner. While Luka and the white dog playfully interact, for several seconds Coco is going nuts trying to break free to get at Luka.
15. At the :39 mark, well after the white dog and Luka have said their goodbyes and moved on, Coco breaks free and charges Luka, getting to her in less than a second. The action travels offscreen for a few seconds, as Ms. Manuel and Mr. Jucevic struggle to get Coco to disengage. At the :43 mark, the dogs swing into view, with Coco already firmly latched onto Luka’s rear underbelly, in the crotch area. Coco’s jaws continue gripping Luka while the dogs disappear offscreen.

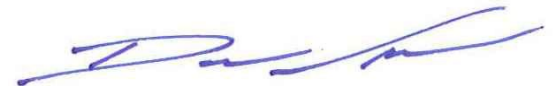
16. Even after the people successfully get Coco to release his teeth, he runs around the Manuel son to come back at Luka, is rebuffed, and then tries to go around the other way to get at Luka a different way. And still later, after the son re-contains Coco in the corner, Coco's attention remains fixed on Luka, as he struggles to break free to attack Luka again. Even after the son picks him up, Coco is scratching to get loose, with his glare never leaving Luka.
17. Mr. Manuel disputes that Coco actually bit Luka and asserts Luka's wounds were caused by scratch. It is not a critical distinction to this case, because the touchstone is endangering acts and constituting a danger, not whether there was a bite or something else. Yet after hearing the testimony, reviewing the wound pictures, and then actually *seeing* an extended bite on the video, Coco definitely bit Luka.
18. That is typically sufficient to uphold a viciousness designation. After all, what is better evidence that a dog constitutes a danger than proof that, given some set of circumstances not arising to legal provocation, a dog will actually bite or attack a person or pet. However, occasionally we find mitigating circumstances sufficient to overturn such a viciousness designation. Suppose, for example, that as Luka got out of the elevator and approached the white dog, the white dog responded by biting Luka. We would not have called that bite legally "provoked," and yet such a split-second reaction could lead us to overturn that viciousness designation.
19. April 25 was the polar opposite of that hypothetical. Coco starts reacting even *before* Luka starts coming off the elevator. As Luka and the white dog nonchalantly engage, Coco is going nuts in the corner. Coco breaks loose and attacks well after Luka and the white dog have disengaged and Luka is retreating in the other direction. After Coco charges and latches on, he does not voluntarily unlatch even as people desperately try to prevent more violence. Once forcibly disengaged, Coco keeps trying to get at Luka. Viciousness here is an easy call.
20. April 25 alone would have been sufficient to sustain the viciousness designation, but it was not even a one-off. The evening before with Ms. Phouangsavanh, Coco had gone ballistic at the site of Luka. Thankfully, that evening Ms. Manuel was able to control Coco, but it illustrates how reactive Coco is, and that there was not some bizarrely unique circumstance that set Coco off on April 25.
21. Mr. Manuel does not believe Coco barked at Luka. There is no sound recording or eyewitness testimony from April 25, but Ms. Phouangsavanh was clear that if Luka made noise on April 24, it was slight. A lack of barking/growling is not indicative of much in either direction. Some of our most disturbing cases have involved an attacking dog making no sound, even as it inflicts fatal injuries on another pet. That Coco apparently made little or no noise on April 24 or 25 is not particularly relevant. Nor is Coco's intent particularly relevant. If Coco latched onto Luka because Coco thought it was a game, that is even *more* disturbing, because it shows that merely removing a source of what Coco believes to be a threat would not stop his endangering activity.
22. In sum, we sustain Coco's viciousness designation. That leaves two items.

23. First, as to the monetary penalty, Animal Services readily agrees that the Manuels are responsible owners. They had Coco on a leash and harness on both days. They were responsible immediately after the attack, checking in on Luka's well-being and offering to pay the vet bill. Since then, they have taken steps to further protect the public by getting a new muzzle for Coco and moving to a spot where Coco will be less likely to encounter other dogs. We will greatly reduce the monetary penalty.
24. Second, Animal Services asks that we add a muzzling requirement to the four bulleted items in the May 4 violation notice and compliance order. Muzzling would certainly be a good idea for the Manuels going forward, to prevent a repeat of April 25 and more serious consequences. In some past cases, we have added a muzzling requirement where, say, we hear an appeal of a combined viciousness determination/order to remove the dog from King County, and we sustain the viciousness designation but then craft a remedy that, rather than rehoming the dog, the owners can keep the dog in the County so long as they take additional safety precautions such as muzzling. In those contexts, muzzling was a middle ground, a less onerous remedy than having to get rid of the dog.
25. Today's context is different. We are sustaining the viciousness violation and there is no removal order. Animal Services did not present a strong enough case for us to add additional containment requirements. We elect not to add a muzzle requirement today.

DECISION:

We sustain Coco's viciousness designation and compliance order, but we reduce the penalty from \$500 to \$100.

ORDERED August 9, 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 *September 8, 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 JULY 18, 2023, HEARING IN THE APPEAL OF RODELLO
AND MARTHA MANUEL, REGIONAL ANIMAL SERVICES OF KING COUNTY
FILE NO. V23014204-A23002867**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Angela Phouangsavanh and Rodello Manuel. 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. A23002867
Exhibit no. D3	Online Complaint form of April 26, 2023, incident by Angela Phouangsavanh, dated April 26, 2023
Exhibit no. D4	Video
Exhibit no. D5	Photograph of Luka's injury
Exhibit no. D6	Veterinarian Records
Exhibit no. D7	Notice of violation no. V23014204-A23002867, issued May 4, 2023
Exhibit no. D8	Appeal, received May 23, 2023
Exhibit no. D9	Map of subject area

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

Exhibit no. A1	Email and photographs
Exhibit no. A2	Video

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CERTIFICATE OF SERVICE

SUBJECT: Regional Animal Services of King County file no. **V23014204-A23002867**

RODELLO AND MARTHA MANUEL

Animal Services Enforcement Appeal

I, Lauren Olson, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED August 9, 2023.



Lauren Olson
Legislative Secretary

Eykel, Chelsea

Regional Animal Services of King County

Manuel, Rodello/Martha

Hardcopy

Phouangsavanh, Angela

Hardcopy