

August 22, 2023

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

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**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file no. **V23014298-A23003558**

**KATERINA KRSTIC**

Animal Services Enforcement Appeal

Activity no.: A23003558

Appellant: **Katerina Krstic**

[REDACTED]  
Lake Forest Park, WA 98155

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. Katerina Krstic appeals the portion of a Regional Animal Services of King County (Animal Services) violation notice and compliance order declaring her son's dog, Grizzly, vicious and requiring Grizzly be leashed at all times when off the property. 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 but significantly reduce the penalty and (in a first) allow certain off-leash exercise outside the dog park scenario.

### Background

2. On May 30, 2023, Animal Services issued a violation notice to Katerina Krstic for her son's dog, Grizzly, being unlicensed, running at large, qualifying as vicious, and needing to be confined. Ex. D6.
3. Ms. Krstic appealed on June 13. Ex. D8. We went to hearing on August 10. Grizzly is now licensed in King County, and Ms. Krstic did not challenge the running at large violation.

### Hearing Testimony

#### *Shannon Coy Testimony*

4. Shannon Coy testified that on May 30 she was talking with Ms. Gasperino, whose dog, Rhea, was just sitting next to them. Ms. Coy noticed a lady [Ms. Krstic] walking an unleashed dog [Grizzly] up the hill. Grizzly turned his head, stopped, and pinned his ears back. Without barking or growling, Grizzly took off across the street and barreled into Rhea.
5. Grizzly started biting and trying to tear Rhea apart. Grizzly was savaging Rhea, biting Rhea's whole body, including head and neck. Grizzly intended to harm Rhea. Ms. Coy thought about grabbing Grizzly's back legs, but she was concerned Grizzly would then attack her.
6. Ms. Krstic came over, grabbed Grizzly's collar, and pulled him off Rhea. Grizzly was growling and lunging towards Rhea as Ms. Krstic pulled him away; Grizzly would not give up trying to attack. Ms. Krstic dragged Grizzly away. Ms. Gasperino called her husband, who got Rhea. Ms. Gasperino called the police, and they both gave statements.
7. If Grizzly were allowed to be walked off-leash again, Ms. Coy would be afraid for herself, children, and other animals.

#### *Meena Gasperino Testimony*

8. Meena Gasperino testified that she noticed Ms. Krstic as she was talking with Ms. Coy. Ms. Gasperino then noticed Grizzly, who was unleashed, next to Ms. Krstic. Grizzly immediately charged at her and Rhea; there was no room for Ms. Gasperino to escape. Grizzly started biting Rhea. Grizzly had Rhea's hindquarters and other body parts in his mouth. Grizzly kept biting and would not let up the attack. Fur was flying everywhere. Ms. Gasperino screamed; all she could do was control her dog. She cut her heel on the curb and fell backward into the rockery. She does not recall how she fell. However, there were dog bodies everywhere and she could have just tumbled down. She continued to scream and hold onto Rhea, who was desperately trying to get away. The attack continued. Grizzly was not trying to bite Ms. Gasperino.
9. Ms. Gasperino does not recall Ms. Krstic coming over and getting Grizzly, because she was still on the ground and facing Rhea. She may have been laying on her stomach then, considering she had lots of bruises on her elbows and legs. Ms. Gasperino did see Ms.

Krstic pulling Grizzly down the hill. Grizzly was not leaving on his own accord, but instead had his head still turned towards them; he kept lunging until he was out of sight.

10. Ms. Gasperino had cuts on her fingers and nails, which was probably from holding Rhea's leash. She took her sock off and saw the deep laceration on her heel. About an hour after the incident, Ms. Gasperino noticed Rhea had been bitten on her side. Ex. D4. Ms. Gasperino took Rhea to the emergency vet. They shaved Rhea and put in a drain because the puncture from the tooth was deep. Rhea took antibiotics for two weeks. Ms. Krstic paid the vet bill, and Ms. Gasperino is very grateful for that. Ms. Krstic also came to her house and checked in on Rhea.
11. Ms. Gasperino is still nervous all the time. She has PTSD from this and is always alert. She now carries pepper spray on walks.

*Lorena Perez Testimony*

12. Lorena Perez testified that she met Grizzly in January 2020 at a shelter in California. She took Grizzly on as her own nonprofit project. The shelter staff told her that Grizzly was not friendly with other dogs, but she noticed that he appeared to be only reactive and not aggressive. In the dog run, he never fence fought or cared about the other dogs. When she walked Grizzly, he would bark at other dogs, but he would not lunge or move toward them. This made her believe that Grizzly was dog reactive and dog selective but not aggressive. She worked with him for six months until he was adopted by another family. That family returned Grizzly, and then Ms. Krstic/Mr. James' son, Aiden, adopted him.
13. She and Aiden did an eight-week, private lesson program with Grizzly. Aiden could take Grizzly everywhere, even off-leash. Grizzly is e-collar trained and has incredible recall. Grizzly came from the Central Valley, which is lots of open land.
14. Ms. Krstic and Mr. James contacted Ms. Perez the day of the incident and drove to Anacortes the next day to train with her. She expressed the importance of having Grizzly leashed, especially since they had not been trained with the e-collar and it was their early days having Grizzly. She fully trusts Ms. Krstic and Mr. James to handle Grizzly now. When used correctly, the e-collar definitely works.
15. Ms. Perez does not recommend Grizzly be walked off-leash in a neighborhood. However, with his e-collar and the correct handler Grizzly would be fine in open areas where he can freely run. It is not harmful for Grizzly to be walked on leash. Ms. Perez does not think Grizzly is vicious. He has issues, but she does not want this designation to stay with Grizzly, because he is an incredible dog with the correct handler.

*Katerina Krstic Testimony*

16. Katerina Krstic testified that she brought Grizzly on a walk the morning of the incident. She had walked Grizzly off-leash maybe two to three times before in the days after their son left Grizzly with them. She thought she knew how to use the e-collar; Grizzly was also wearing a normal collar.

17. That morning she walked Grizzly up the hill. Ms. Krstic did not then know how to read Grizzly's body language. Grizzly launched and attacked Rhea. Ms. Krstic agrees with how Ms. Coy and Ms. Gasperino recalled the incident. It was chaotic and hectic. Ms. Krstic had never had a dog, so she did not know how to react. Ms. Krstic pulled Grizzly out and away from Rhea. Ms. Krstic went to the Gasperino home to inquire on how Rhea was doing.
18. Ms. Krstic and her husband (Mr. James) have no intention to walk Grizzly off-leash. This is a new situation for them. It is also a new, more congested environment for Grizzly. However, King County is large. They request that Aiden be allowed to take Grizzly off-leash in large open areas with the e-collar with the power turned up. The incident occurred because Ms. Krstic was new to handling Grizzly. She is fully focused on Grizzly when she walks him.
19. Aiden lives in California. He is in the Navy and will have a number of deployments, some varying in length. So, Grizzly will be staying with them for a period of months.

*Jeff James Testimony*

20. Jeff James testified that he was not present the day of the incident. He planned on reaching out to Ms. Perez once they got Grizzly; the incident simply sped up that timeline. Mr. James learned how to use the e-collar. He believes that if the e-collar was correctly used, Grizzly could have been recalled. However, Mr. James, Ms. Krstic, and Aiden all agree that the e-collar is not a substitute for an actual leash when walking Grizzly in a neighborhood, hiking trail, or other congested area. He is requesting Grizzly be allowed off-leash, with the e-collar, in open, empty areas.
21. Mr. James has never seen Grizzly make menacing moves towards people. He believes Grizzly should not have the vicious designation for a one-off incident that was due to handler issues. Mr. James and Ms. Krstic have learned how to train Grizzly's concentration when he spots another dog. He cares about the neighbors and their dogs. Aiden is committed to the same things as his parents.

Legal Standards

22. Does Grizzly 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 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. If so, what containment requirements are appropriate.
23. 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

### *Introduction*

24. This was a well-presented case. Ms. Coy and Ms. Gasperino came across as measured and credible in describing the incident. Ms. Perez was one of the few helpful expert witnesses we have entertained. And Ms. Krstic and Mr. James put on a clinic for how to appeal a violation notice; they were more persuasive than most of the attorney presentations we entertain.

### *Basic Facts*

25. The facts here are not really in dispute. On May 26, Ms. Krstic was walking Grizzly. It was only her second or third time walking Grizzly, whom they had just started watching while Aiden was on Navy deployment. (We appreciate his service to our country.) She was attempting to use Grizzly's e-collar. As they walked, they approached Ms. Coy, Ms. Gasperino, and Rhea, standing on the opposite side of the street. Rhea was just sitting there while Ms. Coy and Ms. Gasperino chatted.
26. Without warning (such as barking or growling), Grizzly pinned his ears back flat, charged across the street, barreled into Rhea, and began biting her. Not content with one or two bites, Grizzly continued attacking, repeatedly biting Rhea, including her head and neck. Grizzly did not let up even as Rhea tried to get away and people shouted at Grizzly to stop. Even as Ms. Krstic pulled Grizzly off, he continued to lunge and struggle to get back at Rhea.
27. Though she clarified that it at no point did Grizzly actually go after her or Ms. Coy, Ms. Gasperino was nonetheless hurt in the melee, lacerating her heel against the curb and bruising her elbows and legs as she tumbled into a rockery. She continues to suffer from post-attack anxiety and now carries pepper spray. And while Grizzly did not intend to hurt Ms. Gasperino, he definitely intended to hurt Rhea and he succeeded, including inflicting a gash that required sutures and a drain. Exs. D2 at 009, D4 at 001, D5 at 002-03.
28. Ms. Krstic and Mr. James responded immediately and responsibly. They offered to, and then followed through on, paying for Rhea's vet bills. They sped up plans to restart Grizzly's training by driving him to Anacortes the next day to visit with Ms. Perez. They have continued to work with Grizzly, and he has shown good progress. Exs. A1-A7.

### *Viciousness*

29. In normal speech, we use "vicious" to mean malicious or spiteful or morally depraved. However, that is not the way KCC 11.04.020.BB defines it, as quoted in paragraph 22. On May 26, Grizzly performed acts endangering Rhea's safety (and somewhat endangering Ms. Gasperino, though to a much lesser extent than Rhea), attacking Rhea without provocation. Grizzly meets KCC 11.04.020.BB's definition of "vicious."
30. That is not definitive, because in addition to the past tense "exhibited vicious propensities," Animal Service must show that Grizzly "constitutes a danger" to people's

or their pets' safety. KCC 11.04.230.H. While an unprovoked attack is *typically* enough to satisfy .230.H—after all, what is better evidence that a dog constitutes a danger than evidence that, given some set of circumstances not arising to “provocation,” a dog will attack another pet—in some appeals we have found extenuating circumstances such that we have overturned a viciousness designation, even after an unprovoked attack. But those have been when the endangering act is at the low end of the spectrum and there is some incitement.<sup>1</sup>

31. May 26 was not that at all. We did not find Ms. Coy at all hyperbolic when she described Grizzly's attack as a savage onslaught on a dog doing nothing more provocative than just sitting calmly all the way across a public street. Unlike the scenario where a dog comes up, delivers a few bites, and then retreats when called, Grizzly continued going after Rhea even as Ms. Gasperino did her best to pull Grizzly away. Despite some really solid arguments from Ms. Krstic, Mr. James, and Ms. Perez, Animal Services easily meets its burden of showing a KCC 11.04.230.H violation.

### *Remedy*

32. We make two adjustments. First, Mr. James and Ms. Krstic could hardly have been any more responsible as caretakers, from avoiding a state of denial or victim-blaming/dismissing, to paying for damages, to extensive training efforts. We significantly reduce the viciousness penalty.
33. Second, while we sometimes modify a compliance order so as to allow a dog to run off-leash in a sanctioned dog park, we have always rejected requests to allow a dog to run off-leash in unfenced areas. However, this case is different in several respects.
  - Given Grizzly's undisputed reactivity to other dogs, subjecting other dogs to Grizzly in a dog park does not seem like the wisest approach. And not providing some avenue for a dog, especially a large dog, to run free and let off steam comes with its own dangers.
  - Ms. Perez did not blow her (nor Mr. James and Ms. Krstic their) credibility by asserting that Grizzly could not be safely restrained with only an e-collar in the vicinity of other dogs. Instead, she explained why an e-collar—with appropriate handler training—would be appropriate in a remote area. And she testified to Grizzly's e-collar recall with Mr. James and Ms. Krstic (post-training) and with Aiden.

We will modify the compliance order accordingly.

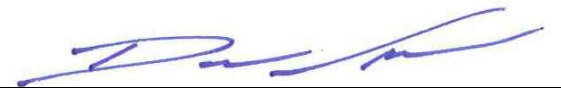
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<sup>1</sup> For example, a dog bites a delivery person, using more of a “back off” nip than a forceful bite. Though a legally unprovoked bite, the combination of the minor-ness of the bite plus the scenario of a stranger (albeit an invited one) encroaching the dog's personal space might cause us to conclude that the dog did not really constitute a danger, thus overturning the viciousness designation.

## DECISION:

1. The licensing violation has been dismissed and is moot.
2. We sustain the running at large violation and \$50 penalty.
3. We sustain the viciousness violation but reduce that penalty to \$100.
4. We modify Animal Services' May 30, 2023, compliance order as follows (A. through D. being substantively unchanged, and E. being new):
  - A. Secure Grizzly 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 Grizzly using a leash no more than eight feet long, with a collar or harness, when taking Grizzly off your property. A competent and capable person must handle Grizzly at all times when attended outside.
  - C. If not already completed, microchip Grizzly and provide the microchip number to the King County Animal Licensing Office (206) 296–2712 by **September 21, 2023**.
  - D. Keep Grizzly current on his rabies vaccination.
  - E. Grizzly is allowed to run off-leash in remote areas, far removed from neighborhoods, hiking trails, and other places where dogs are likely to be present, provided Grizzly has a properly calibrated e-collar on and is being handled by Mr. James, Ms. Krstic, or their son.
5. We cannot speak for how other jurisdictions may elect to treat today's decision, but we only intend our decision to apply in unincorporated King County and in those King County cities that contract with Animal Services.<sup>2</sup>

ORDERED August 22, 2023.



David Spohr  
Hearing Examiner

<sup>2</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

## 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 21, 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 AUGUST 10, 2023, HEARING IN THE APPEAL OF KATERINA KRSTIC, REGIONAL ANIMAL SERVICES OF KING COUNTY FILE NO. V23014298-A23003558

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Shannon Coy, Meena Gasperino, Lorena Perez, Katerina Krstic, and Jeff James. 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	Lake Forest Park Police Investigation Report
Exhibit no. D3	RASKC investigation report no. A23003558
Exhibit no. D4	Photograph of Rhea’s injuries
Exhibit no. D5	Vet Report
Exhibit no. D6	Notice of violation no. V23014298-A23003558, issued May 30, 2023
Exhibit no. D7	NVOC mailing/tracking history
Exhibit no. D8	Appeal, received June 15, 2023
Exhibit no. D9	Map of subject area

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

Exhibit no. A1	Video – Jeff walks Grizzly by another German Shepherd
Exhibit no. A2	Video – Katerina walks Grizzly by another dog
Exhibit no. A3	Video – Jeff walks Grizzly by two dogs
Exhibit no. A4	Video – Grizzly meets neighbors on a walk
Exhibit no. A5	Video – Jeff walks Grizzly by a person passing by
Exhibit no. A6	Video – Katerina walks Grizzly by yard with barking dogs
Exhibit no. A7	Video – Jeff walks Grizzly by a house deck with barking dogs



August 22, 2023

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V23014298-A23003558**

**KATERINA KRSTIC**  
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 22, 2023.



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Lauren Olson  
Legislative Secretary

**Coy, Shannon**

Hardcopy

**Eykel, Chelsea**

Regional Animal Services of King County

**Gasperino, Meena**

Hardcopy

**Jeff James, Katerina Krstic**

Hardcopy

**Perez, Lorena**

Hardcopy