

September 13, 2023

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND DECISION**

SUBJECT: Regional Animal Services of King County file nos. **V23014423** and **V23014427**

**GABRIELA BODEA**

Animal Services Enforcement Appeal

Activity no.: A23004141

Appellant: **Gabriela Bodea**

[REDACTED]  
Kenmore, WA 98028

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  
Email: [raskcappeals@kingcounty.gov](mailto:raskcappeals@kingcounty.gov)

FINDINGS AND CONCLUSIONS:

Overview

1. Gabriela Bodea appeals a Regional Animal Services of King County (Animal Services) violation notice and a removal order for her dog Samson. 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 Samson's viciousness designation, reduce the monetary penalty, and overturn the removal order.

### Background

2. Chris Waldon filed a complaint for an incident involving Samson on July 1, providing photographs of his injuries. Exs. D3-D4. A neighbor and Ms. Bodea provided statements. Exs. D5-D6.
3. Animal Services issued Ms. Bodea a notice and order for Samson qualifying as vicious and needing to be confined, as well as an order to remove Samson from King County. Exs. D7-D9. Ms. Bodea timely appealed. Ex. D10.
4. We held a pre-hearing conference on August 1 and went to hearing on September 5.

### Hearing Testimony

#### *Chris Waldon Testimony*

5. Mr. Waldon was delivering packages to the Bodeas on July 1. As he was about to set the boxes on the porch, he heard Samson barking. Samson ran around the south side of the house and charged but missed him the first time. Mr. Waldon let go of the boxes and stepped backwards, yelling at Samson to stay back. The Bodeas came outside and tried grabbing Samson, yelling at Samson to get back. Samson charged a second time; Mr. Waldon tried to use his delivery device as defense, but Samson still bit him on his right arm. Samson bit down once and let go. The Bodeas were able to pull Samson away and subdue him on the ground. The neighbors arrived shortly to assist Mr. Waldon with first aid and to offer him a drive to the clinic.
6. At the clinic, Mr. Waldon received stitches for his two injuries (one laceration on the side of his wrist and a deeper puncture wound on the front). He returned to work the following Monday on limited duty; however, his arm was in pain and pus was coming out, so he returned to the clinic. The anti-biotics had not worked, so the stitches were removed and he checked into a hospital, where he stayed for two days. Mr. Waldon took two weeks off work. He no longer delivers to the Bodeas, and even though he was aware of his surroundings prior to this incident, now he is even more alert and nervous.
7. Mr. Waldon notices other dogs he encounters barking loudly, as if alerting to someone being outside; however, Samson's barking is more aggressive than other dogs. When he is delivering to the neighbors, he parks a couple of houses from the Bodeas, and Samson starts barking aggressively along the fence when he hears the motor.

#### *Gabriela Bodea Testimony*

8. Ms. Bodea does not contest Mr. Waldon's recount of events. On July 1, Samson was not locked in, and Mr. Bodea left the door open. She witnessed herself how Samson "went a little crazy." That day, Samson did not have his collar on, so it was difficult to grab him. She had no prior knowledge that Samson could be that protective and aggressive.

9. She notices that with other delivery drivers Samson barks at them but then stops. However, Samson reacts aggressively towards Mr. Waldon. Samson has been a loving dog with no prior history of incidents.
10. Ms. Bodea now keeps Samson tied up when the doors are open because Samson is very protective when people come onto the property. He always wears a collar. Whenever the gate is open, Samson is tied up or kept enclosed on the deck. The entire property is fenced.

### Legal Standards

11. Does Samson 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.
12. Is Samson’s removal from the County warranted under KCC 11.04.290.A.1, which states that:

An animal, declared by the manager of the regional animal services section to be vicious, may be harbored, kept or maintained in King County only upon compliance with those requirements prescribed by the manager. In prescribing the requirements, the manager must take into consideration the following factors:

- a. the breed of the animal and its characteristics;
- b. the physical size of the animal;
- c. the number of animals in the owner's home;
- d. the zoning involved; size of the lot where the animal resides and the number and proximity of neighbors;
- e. the existing control factors, including, but not limited to, fencing, caging, runs and staking locations; and
- f. the nature of the behavior giving rise to the manager's determination that the animal is vicious, including:
  - (1) extent of injury or injuries;
  - (2) circumstance, such as time of day, if it was on or off the property and provocation instinct; and

(3) circumstances surrounding the result and complaint, such as neighborhood disputes, identification, credibility of complainants and witnesses,

while KCC 11.04.290.A.2 states that:

Requirements that may be prescribed include, but are not limited to, the following:

- a. Erection of additional or new fencing adequate to keep the animal within the confines of its property;
- b. Construction of a run within which the animal is to be kept. Dimensions of the run shall be consistent with the size of the animal;
- c. Keeping the animal on a leash adequate to control the animal, the length and location to be determined by the manager. When unattended the leash must be securely fastened to a secure object;
- d. Maintenance of the animal indoors at all times, except when personally controlled on a leash adequate to control the animal by the owner or a competent person at least fifteen years old; and
- e. Removal of the animal from the county within forty-eight hours from receipt of such a notice.

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 basic facts here are not in dispute. Mr. Waldon was delivering packages to the Bodeas' front door. Although Samson is usually confined to the fenced backyard, that day Mr. Bodea was working in the yard and left the passageway open. Samson came around to the front and charged Mr. Waldon on the porch, missing Mr. Waldon with his first pass. Mr. Bodea attempted to grab a hold of Samson, but Samson was not wearing a collar. As Mr. Waldon retreated towards his truck, Samson came back at Mr. Waldon and this time bit his arm before letting go. Mr. Bodea, with Ms. Bodea's help, subdued Samson, who calmed down.
15. While Mr. Waldon had lacerations on the front and back of his forearm, the single puncture on the underside of his arm—which appears to be from incisor tooth—was relatively deep and required six stitches. Ex. D4 at 002, 001. The wound became infected, requiring intravenous antibiotics and hospitalizing Mr. Waldon for two days. Mr. Waldon

missed two weeks of work. He has healed up physically, with the exception of some scarring, but he is understandably now extremely wary of dogs; this has impacted his delivery work. Mr. Waldon no longer makes deliveries to the Bodeas, but when he makes other deliveries on the street, Samson reacts quickly (from behind his fenced yard) and barks aggressively at Mr. Waldon. Ms. Bodea concurred that she has seen Samson aggressively overreact to Mr. Waldon's presence in a way Samson does not do with other visitors or delivery drivers.

16. To her credit, Ms. Bodea did not minimize, victim-blame, or even dispute Samson's viciousness designation, challenging only the penalty amount and the removal order. Samson performed an act endangering the safety of Mr. Waldon, biting him without provocation. And Samson constitutes a danger to the safety of persons lawfully on Samson's premises. Animal Services easily shows that a viciousness designation is warranted here.
17. However, we are the most exacting of Animal Services on removal orders, given the interests at stake.<sup>1</sup> And we have overturned several KCC 11.04.290.A.1 removal orders where the *result* of a first-time incident was traumatic, but where the activity that caused that result was not ultraviolent. While Samson's tooth penetrated relatively deeply, it was not at the level of force from past cases, one of which we recall left the victim's forearm looking like hamburger meat. Nor was this a scenario where Samson shook and twisted, or refused to let go, or bit multiple times, or kept up an unrelenting attack; Samson bit once and let go.
18. The other component relates less to Samson and more to the Bodeas. Where owners are living in a state of denial and not grasping the severity of the situation and the danger their dog poses, it always causes us to question just how carefully they will contain their dog in the future. This is not the case here. Ms. Bodea explained that before June 1 she did not know how aggressive and protective Samson could be, but she "now knows what [she] has." They normally contained Samson in the backyard, and have doubled down on that since June 1. Ms. Bodea's testimony that while Samson goes "crazy" when Mr. Waldon is in the vicinity but not so with other visitors/delivery folks seemed credible on its own and is borne out by her neighbor's statement that, other than minor barking concerns, they had never observed any issues with Samson. Ex. D2 at 004, n.5.
19. So, we have a dog who delivered a serious, unprovoked bite and constitutes a danger, but not the level of ultraviolence we have seen in past cases where we have upheld a removal order based on an isolated incident. And the Bodeas have a pattern of containment, acknowledge the danger Samson presents, and have taken additional precautions since June 1. KCC 11.04.290.A.2 lists removal as a discretionary ("may be prescribed")

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<sup>1</sup> *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) (nature of private interest impacted is a factor in determining how much process is due); *Repin v. State*, 198 Wn. App. 243, 284, 392 P.3d 1174 (2017) (Fearing, C.J., concurring) (analyzing court decisions recognizing "the bond between animal and human and the intrinsic and an estimable value a companion animal"); *Mansour v. King County*, 131 Wn. App. 255, 265, 128 P.3d 1241, 1246 (2006) (in the context of an order removing a dog from King County, "the more important the decision, the higher the burden of proof"); Exam. R. XII.B.4 (higher standards in proceeding involving divestiture of legally cognizable rights).

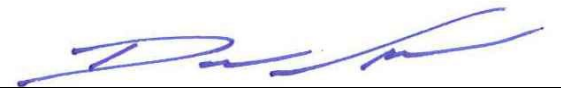
response to a first-time altercation. It is understandable why Animal Services seeks removal here, but weighing all the facts we conclude that Animal Services has not proved by a preponderance of the evidence that removal is the most appropriate remedy. The Bodeas will need to make sure Samson is not unattended in the backyard unless the passageways are *padlocked*, but barring some future incident or violation of the containment order, they can keep Samson.

20. Finally, as June 1 happened despite, not because of, the Bodeas' normally responsible caretaking, we reduce the \$500 penalty to \$200.

#### DECISION:

1. We sustain the viciousness violation and the containment order, but reduce the penalty to \$200.
2. We overturn the removal order. Instead, the Bodeas must:
  - A. Secure Samson 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 Samson using a leash no more than eight feet long, with a collar or harness, when taking Samson off your property. A competent and capable person must handle Samson at all times when attended outside.
  - C. If not already completed, microchip Samson and provide the microchip number to the King County Animal Licensing Office (206) 296–2712 by **October 13, 2023**.
  - D. Keep Samson current on his rabies vaccination.

ORDERED September 13, 2023.



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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, 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 SEPTEMBER 5, 2023, HEARING IN THE APPEAL OF  
GABRIELA BODEA, REGIONAL ANIMAL SERVICES OF KING COUNTY  
FILE NOS. V23014423 AND V23014427**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Gabriela Bodea, Chelsea Eykel, and Christopher Waldon. 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.
Exhibit no. D3	Online Complaint form of July 1, 2023, incident by Christopher Waldon, dated July 2, 2023
Exhibit no. D4	Photograph of A23004141
Exhibit no. D5	Statement from Anissa Walsh
Exhibit no. D6	Statement from Gabriela Bodea
Exhibit no. D7	Notice of violation no. V23014423-A23004141, issued July 2, 2023
Exhibit no. D8	NVOC mailing/tracking history
Exhibit no. D9	Notice and order for removal no. V23014427-A23004141, issued July 5, 2023
Exhibit no. D10	Appeal, received July 5, 2023
Exhibit no. D11	Map of subject area

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**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file nos. **V23014423 and V23014427**

**GABRIELA BODEA**

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, through Quadient-Impress, 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, 2023.



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Jessica Oscoy  
Office Manager



**Bodea, Gabriela**

Hardcopy

**Cosley, Dan**

Hardcopy

**Eykel, Chelsea**

Regional Animal Services of King County

**Waldon, Christopher**

Hardcopy