

December 19, 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 no. **V23014725-A23005682**

**STEVE JOHNSON**

Animal Services Enforcement Appeals

Activity no.: A23005682

Appellant: **Steve Johnson**

[REDACTED]  
Redmond, WA 98053

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. Steve Johnson appeals a notice and order citing his dog, Bruno, for being at-large and for menacing another dog on September 21, 2023. 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 overturned the menacing violation and sustain the at-large violation.

### Background

2. On September 27, 2023, Regional Animal Services of King County (Animal Services) issued violation notice V23014725-A23005682 to Steve Johnson for Bruno running at large and threatening persons in public. Ex. D4.
3. Mr. Johnson timely appealed. Ex. D5. We went to hearing on December 5.

### Hearing Testimony

#### *Jane Baugh Testimony*

4. Jane Baugh testified that Bruno has a direct view into Ms. Baugh's sheep pasture. Bruno is reactive when she is in her pasture working her dog [Henry].
5. On May 31 she brought Henry on a walk. As she was in the cul-de-sac heading home, she saw Bruno sniffing in the easement; on rebuttal, she amended this somewhat to Bruno being deep into the easement. Given Bruno's past reaction to Henry, Ms. Baugh picked up a stick before they entered the easement. They paused to make sure Bruno saw them, so he would not be startled. Bruno charged at them and put his mouth on Henry; Henry's fur was wet. Ms. Baugh yelled and used the stick to try to get Bruno away. Ex. A16. Mr. Johnson was on his property, but he was nowhere near what happened. Ms. Baugh did not hear Mr. Johnson recall Bruno.
6. On September 21, Ms. Baugh was heading up the street with Henry. She stopped in the cul-de-sac to check her phone, heard something behind her, and turned around; on rebuttal, she amended this to stopping just south of the trailer in exhibit D6. She saw Bruno at a dead run at the upper edge of the cul-de-sac, ahead of Mr. Johnson who was at the edge of the driveway. Once Bruno reached Henry, he barked a few times and then returned to Mr. Johnson. Ms. Baugh did not hear Mr. Johnson recall Bruno. Mr. Johnson asked Bruno to sit three times. Bruno would not sit, so Mr. Johnson forced Bruno to sit.
7. She told Mr. Johnson this was the second time Bruno made contact with Henry, and so she was going to file a complaint. Mr. Johnson said he saw Ms. Baugh hit Bruno with a stick [the May 31 incident]. Considering this was the second incident with Bruno, who is aggressive and dominant, Ms. Baugh filed a complaint. There were no physical injuries. This incident caused emotional distress to Ms. Baugh. Ms. Baugh never fell down.
8. After these two incidents, Ms. Baugh saw Mr. Johnson and Bruno in the cul-de-sac, and Mr. Johnson had complete control of Bruno.
9. Ms. Baugh was concerned about Bruno because he is reactive when she is working her livestock. Bruno has been very vocal and agitated. When she walked down Bruno's street he aggressively barks at her. Henry then reacts to Bruno. Ms. Baugh is very familiar with dogs; she has had herding dogs for most of her life.

*Steve Johnson Testimony*

10. Steve Johnson testified that on May 31 he was working in his yard and Bruno was by the easement. As he narrated the video (exhibit A16), he thinks it shows Ms. Baugh go towards Bruno and then Henry chase after Bruno. The first thing Mr. Johnson heard that day was Henry barking at Bruno. Mr. Johnson looked up and saw Bruno running back to him.
11. On September 21, Mr. Johnson and Bruno were heading out for a walk. Ms. Baugh was standing where the red symbol is in exhibit A2; the black line shows the typical path people take when walking to or from the easement. Ms. Baugh was taking photos or videos of the neighbor's construction project. To avoid her, Mr. Johnson and Bruno walked on the right side of his driveway. Bruno trotted by Ms. Baugh and Henry, not paying attention to them, and into the middle of the cul-de-sac. Henry, who was leashed, lunged towards Bruno, and started furiously barking. Mr. Johnson, who was about 20 feet behind Bruno and at the end of his driveway, called him back. Ms. Baugh started swearing at Mr. Johnson and told him to leash Bruno. Mr. Johnson and Bruno continued their walk through the cul-de-sac (green line on exhibit A2).
12. The easement is part of Mr. Johnson's property, but it is public, and King County can develop it.
13. Bruno is extremely well trained. Exs. A4-A15. Bruno responds to voice commands, hand signals, quiet whistles, and clicks. Some of the signals are so quiet Ms. Baugh may not be able to hear them. Bruno also wears an electric collar as a fail-safe. Mr. Johnson has walked Bruno almost daily for the past seven years. They have passed Ms. Baugh and Henry around 15 times with no issues. They have passed each other after these incidents also with no issues.

Legal Standards

14. On September 21, was Bruno:
  - A. "A domesticated animal that menaces a person or other domesticated animals under circumstances not meeting the definition of 'potentially dangerous'?" KCC 11.04.230.E?
  - B. A dog "at large... except in designated off-leash areas or while engaged in obedience training, lawful hunting activity, lawful organized competition, lawful training in preparation for such hunting or competition, herding livestock, or sanctioned search and rescue activities," with under control defined as "a domesticated animal is restrained, by a human using a leash or competent and effective voice or signal control, from approaching any bystander or other domesticated animal and from causing property damage"? KCC 11.04.230.O; KCC 11.01.380.
15. 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

16. We have two sources of evidence to shift through: direct evidence (eyewitness testimony about the September 21 incident) and circumstantial evidence (testimony about other dates, videos from other dates, and documents). Circumstantial evidence can be as equally reliable as direct evidence, so long as the inferences from that evidence are reasonable.<sup>1</sup> We start with the non-September 21 evidence.
17. Mr. Johnson submitted several videos of him walking Bruno on other days. In one Bruno (and only after Mr. Johnson obtains permission) gently walks up and plays with a puppy. Ex. A12. In another, after Mr. Johnson commands Bruno to sit, two other leashed dogs pass seemingly wanting to play with Bruno, but Bruno stays put. Ex. A4. In another, the same thing happens with a different leashed dog. Ex. A5. Even more relevantly, in another Mr. Johnson commands Bruno to sit, which he does, even as a passing dog barks and lunges at its leash to approach Bruno—and not necessarily in a friendly manner. Ex. A15. But perhaps the most relevant is the distance Mr. Johnson allows Bruno to roam. Exs. A7 & A8. This sets Bruno up for failure, leaving little time to react if a leashed dog suddenly appears.
18. That Bruno behaves well with those other dogs does not tell us as much as one might think about the Bruno-Henry dynamic.
19. First, that a dog responds to a specific other dog, especially one sharing a common boundary, with more aggression than it does to most (or even all) other dogs, is common fact pattern. It is a typical refrain we hear from an *appellant* in our cases. For example, in a decision we issued within the last week, we wrote that:
 

We do not dispute Mr. Sallee’s point that [his dog] Barli only seems to behave this way around [next-door neighbor dog] Karl. However, there is no my-animal-only-bit-one-person/animal exception. Animal Services has proven that Barli meets the criteria for a potentially dangerous animal.
20. Second, from our past Mr. Johnson appeals, we know that Henry is not the only dog in the neighborhood Bruno has had a challenging history with. In a January 2020 decision, we found Mr. Johnson’s neighbors, the Hains, “measured and credible” as they testified to “the bad blood” that existed between Bruno and their dogs, including an earlier dog fight. And, in our July 2019 decision, we found neighbor Julie Henshaw credible as she described her unpleasant interactions with unwanted Bruno advances that caused her to choose a different walking route.

---

<sup>1</sup> *State v. Miller*, 179 Wn. App. 91, 105, 316 P.3d 1143 (2014). The inferences based on circumstantial evidence must, of course, be reasonable and not based on speculation. *State v. Vasquez*, 178 Wn.2d 1, 16, 309 P.3d 318 (2013).

21. While we did not find Mr. Johnson particularly credible, Ms. Baugh was generally even less so. As noted above, her testimony about May 31 and September 21 changed somewhat between her initial recounting and her rebuttal testimony. More importantly, in her initial telephone complaint on September 21, the call center intake person noted that, “When I spoke to rp [Ms. Baugh] via phone, she said she was knocked down and injured her back during the incident[;] also says this is second time this has happened. Steve refuses to leash his dog went on walks.” Ex. D2 at 002, n.1.
22. Yet Ms. Baugh testified that she was not knocked down nor injured her back, and she denied making any statement to that effect to the call center. Often a discrepancy between a note in the file about a conversation v. hearing testimony is easily explained. For example, the note might say “[incident] was first time had seen dog,” and the witness will clarify, “Yes, I said that, but in the context of [date] being the first time I had seen [neighbor’s dog] trespass onto my property.” Here, neither Ms. Baugh nor Animal Services offered a credible explanation for why a note taker who got everything else right—September 21 being the second incident [after May 31], Mr. Johnson’s long history of refusing to leash Bruno—just randomly made up a fall and back injury out of whole cloth.
23. Yet Mr. Johnson’s testimony about the May 31 incident does not match the video as closely as Ms. Baugh’s, which somewhat reverses our initial credibility assessment. Looking at the enhanced exhibit 16, we see Ms. Baugh, having stood still for several seconds, raise her stick. Because she is stationary at the time and at all times had Henry on a leash, the most reasonable inference we draw is that Bruno has approached Henry, not the other way around—as Mr. Johnson strenuously claimed—with Ms. Baugh preparing to defend Henry from an approaching Bruno. Only after Ms. Baugh has had the stick raised for several seconds does Ms. Baugh lurch forward, presumably pulled by Henry. The dogs then engage, before Bruno heeds Mr. Johnson’s call and returns to the property, with Henry nipping.
24. That video, along with the Johnson and Baugh testimony about May 31, would have easily been sufficient to sustain a at-large violation against Bruno, as Bruno was not under control sufficient to keep him from approaching a leashed Henry. But it would not necessarily have been sufficient to support a menacing-another-animal violation. Yet the violations cited and appealed related to September 21, not May 31.
25. As to menacing, it would have been a close call if Animal Services had cited Bruno for menacing Henry on May 31. But even under *Ms. Baugh’s* version of September 21, Bruno did not meet that standard. We overturn the menacing violation.
26. As to the at-large violation, we have neither a video nor a particularly credible witness to rely on. Synthesizing all the evidence from the entire case and our assessment of that evidence, we find that, slightly more likely than not, Bruno was not sufficiently restrained to prevent him from approaching Henry. We sustain the at-large violation. We note that, for an at-large violation, it was irrelevant whether Bruno charged aggressively v. simply wandered near Henry in the most friendly and nonchalant manner possible.

27. Certainly Mr. Johnson has very good control with Bruno when he wants to. He simply did not sufficiently exercise that control on September 21 (nor on May 31). Future-wise, we take judicial notice that the standard dog leash is six feet.<sup>2</sup> Mr. Johnson may want to keep Bruno closer to him to avoid a future dispute. Yet Mr. Johnson always puts on a spirited and thoughtful defense, and so at-large appeals from Mr. Johnson are far more interesting than the typical at-large appeals that make it to hearing.

DECISION:

1. We grant Mr. Johnson's appeal as to the KCC 11.04.230.E (menacing) violation.
2. We deny Mr. Johnson's appeal as to the KCC 11.04.230.O (at-large) violation.
3. The penalty Mr. Johnson owes is \$50, not \$100.

ORDERED December 19, 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 *January 18, 2024*. Either party may appeal this decision by applying for a writ of review in superior court in accordance with chapter 7.16 RCW.

---

<sup>2</sup> See, e.g., <https://pettable.com/blog/how-long-should-a-dog-leash-be>; <https://size-charts.com/type/dog-size-charts/dog-leash-size-chart/>; <https://www.pawtracks.com/dogs/dogs-leash-length/>.

**MINUTES OF THE DECEMBER 5, 2023, HEARING IN THE APPEAL OF STEVE  
JOHNSON, REGIONAL ANIMAL SERVICES OF KING COUNTY  
FILE NO. V23014725-A23005682**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Chelsea Eykel, Jane Baugh, and Steve Johnson. 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
Exhibit no. D2	RASKC investigation report no. A23005682
Exhibit no. D3	Online Complaint form of September 21, 2023, incident by Jane Baugh, dated September 21, 2023
Exhibit no. D4	Notice of violation no. V23014725-A23005682, issued September 27, 2023
Exhibit no. D5	Appeal, received October 2, 2023
Exhibit no. D6	Map of subject area

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

Exhibit no. A1	Appellant Report
Exhibit no. A2	Map
Exhibit no. A3	Video File Exhibit Description
Exhibit no. A4	Video Dogs
Exhibit no. A5	Video Barking Dogs
Exhibit no. A6	Video Child
Exhibit no. A7	Video Distance
Exhibit no. A8	Video Distance recall
Exhibit no. A9	Video Dogwalker
Exhibit no. A10	Video Girls
Exhibit no. A11	Video Jogger
Exhibit no. A12	Video Little Dog
Exhibit no. A13	Video Runners
Exhibit no. A14	Video Stroller
Exhibit no. A15	Video Growling Dog
Exhibit no. A16	Video Animal Cruelty

December 19, 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)

**CERTIFICATE OF SERVICE**

SUBJECT: Regional Animal Services of King County file no. **V23014725-A23005682**

**STEVE JOHNSON**

Animal Services Enforcement Appeals

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, 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 December 19, 2023.



---

Lauren Olson  
Legislative Secretary



**Baugh, Jane**  
Hardcopy

**Eykel, Chelsea**  
Regional Animal Services of King County

**Johnson, Steve**  
Hardcopy