

**STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE**

IN THE MATTER OF : **APPEAL OF
DISPOSAL ORDER**
“VADA”
DOG OWNED BY SEAN SIMMONS
and CIERRA PENSIS : **OCTOBER 15, 2018**

PROPOSED DECISION

A formal administrative hearing was held on October 15, 2018 with the undersigned, Wayne Kasacek, serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture. At said hearing, Sergeant William Wolfburg, representing the Town of Plainfield presented testimony, exhibits and arguments. The dog owners, Sean Simmons and Cierra Pensis were not present.

Findings of Fact

1. Commissioner Steven K. Reviczky appointed Wayne Kasacek, an employee of the Department of Agriculture, to act as Hearing Officer and to issue a proposed decision in the matter of an appeal of a Disposal Order issued by the Town of Plainfield, Connecticut “the Town” on the dog named “Vada” owned by, Sean Simmons and Cierra Pensis. Hearing Officer Exhibit [Ex.] HO-3.
2. The Connecticut Department of Agriculture gave notice of the hearing to all parties including Sean Simmons and Cierra Pensis at their last known address. Ex. HO-4
3. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(c), an administrative hearing was held and concluded on October 15, 2018. (See transcript in its entirety).
4. The Hearing Officer inquired as to the current residence of the dog owners Sean Simmons and Cierra Pensis. Testimony by Plainfield Sergeant William Wolfburg revealed that to the best of his knowledge, Sean Simmons and Cierra Pensis had

moved to 1060 Wrenn Crumpton Road, Person County, North Carolina on or about April 8, 2018. Tr. pg. 8

5. Plainfield Animal Control Officer Karen Stone ("ACO Stone") testified that she responded to a complaint concerning a bite to a person by a German Shepard (identified as Vada in ex. T-7) owned by Sean Simmons and Cierra Pensis on July 26, 2017. It is noted in the exhibit that the dog Vada was not licensed. Tr. 26, Ex. T-7
6. ACO Stone testified that on August 15, 2017 she investigated a complaint concerning a Miranda Carrier who was bitten while in the yard of her cousin Victoria Yager, which is adjacent to the home of Sean Simmons and Cierra Pensis. Tr. Pg. 27, Ex. T-8
7. ACO Stone testified that on January 10, 2018 she investigated a complaint concerning a minor child, aged 10 years old, who was attacked by the dog Vada owned by Sean Simmons and Cierra Pensis while she was getting off the bus. No visible injuries were noted as result of the incident. Tr. Pg. 29, Ex. T-9
8. The written report of ACO Stone, statements made by the January 10, 2018 victim to ACO Stone and a written statement of Cheryl Dexter, mother of the victim all indicate that dog Vada was dragging a leash at the time of the incident and that Vada was not licensed. Ex. T-9
9. ACO Stone testified that on January 20, 2018 Plainfield Police were called to an incident involving Vada and two minor boys who while walking on the road, were attacked and bitten by a German Shepard that lived at 52 North Chestnut Street, the residence of Sean Simmons and Cierra Pensis at the time. Tr. Pg. 30, Ex. T-10
10. Plainfield Chief of Police, Michael Surprenant testified to exhibit T-11 as a record kept in the normal course of business by the Plainfield Police department. T-11 is a report of the January 20, 2018 incident authored by Sergeant Todd Shaw who responded. Tr. Pg. 31, Ex. T-11
11. Chief Surprenant testified that the report (ex. T-11) states that two minor male victims were severely bitten while in the public portion of the street. Both victims

received emergency care for the injuries they sustained. Photographs of the injuries are depicted in exhibit T-5. Tr. Pg. 32, Ex. T-11 and T-5

12. The hearing officer inquired with ACO Stone as to her reasoning in issuing a disposal order. ACO Stone testified that because of the frequency of bites and the increasing aggressiveness and severity of the attacks she determined that a disposal order was necessary to ensure public safety. Tr. Pg. 35
13. Officer Stone testified on questioning by the hearing officer that she had ten years' experience as an Animal Control officer, that she had received level 1 and level 2 training from the National Association of Animal Control (NACA). Tr. Pg. 41 This hearing officer takes note that NACA training is a standardized curriculum offered to Animal Control officers and had been the standard curriculum that the Connecticut Department of Agriculture supported for all state and municipal animal control officers.

Conclusions of Law

Conn. Gen. Stat. § 22-358(c) provides, among other things, that "any animal control officer ...may make any order concerning the restraint or disposal of any biting dog, cat or other animal as . . . such officer deems necessary." It further provides in § 22-358(c) that following a hearing on such order, "the commissioner may affirm, modify or revoke such order as the commissioner deems proper."

Discussion and Recommendation

The Town of Plainfield presented testimony and evidence in this case of four incidents of increasing severity involving by the dog Vada. The most recent incident and the incident that prompted the disposal order resulted in injuries to two minor boys that required medical attention. Throughout the record it is apparent that the owners of the dog Vada, Sean Simmons and Cierra Pensis were given ample warning and opportunity to control the behavior of Vada. Even after having been warned and issued infractions and violations, Vada was never licensed nor was Vada vaccinated for rabies at the time of the last incident, as summarized in exhibit T-1 and corroborated in the other exhibits and testimony. Sean Simmons and Cierra Pensis having moved to North Carolina, failed to inform the department of their relocation. This hearing officer has also taken notice that Sean Simmons along with an accomplice were arrested after they

broke into and removed Vada from the Plainfield dog pound. Sean Simmons was found guilty on charges of criminal trespass and failure to comply with an animal quarantine as a result of this incident. While the existence of the arrest and conviction of Sean Simmons is not of import to this proceeding, the behaviors and actions of the dog owners are, with respect to their ability and willingness to control and moderate the behavior of their dog. The numerous infractions and violations along with the failure to correct or control Vada lead this hearing officer to the conclusion that Sean Simmons and Cierra Pensis are not responsible dog owners and have not and do not take responsibility for the actions of their dog Vada. This hearing officer finds the testimony of ACO Stone to be credible and reliable. The number incidents and the escalation in severity of incidents ultimately convince this hearing officer that ACO Stone properly and thoughtfully came to the conclusion that Vada should be euthanized. Upon careful consideration of the testimony and all of the evidence presented in this case, there is a preponderance of evidence in the record to affirm the Disposal Order.

Proposed Final decision

After consideration of the entire record in this case, I recommend that the final decision maker in this matter, in order to protect the public, affirm the Disposal Order issued by the Town of Plainfield on the dog named Vada, owned by Sean Simmons and Cierra Pensis.

Wayne Kasacek 4 Dec 2018

Wayne Kasacek, Hearing Officer