

**STATE OF CONNECTICUT  
DEPARTMENT OF AGRICULTURE**

**IN THE MATTER OF** : **APPEAL OF**  
**"SCARLETT"** : **RESTRAINT ORDER**  
**DOG OWNED BY Jeffrey Carlsen** : **December 17, 2018**

**PROPOSED FINAL DECISION**

***I***

**SUMMARY**

On June 22, 2018, the Town of Ellington Animal Control Officer (ACO), Gary Wilson, acting under the provisions of Connecticut General Statutes (C.G.S.) §22-358(h), issued a Restraint Order to Jeffrey Carlsen, owner of the dog named Scarlett. Mr. Carlsen timely requested a hearing before the Commissioner of Agriculture pursuant to C.G.S. §22-358.

A formal administrative hearing was opened on October 18, 2018, with Stephen Anderson serving as Hearing Officer pursuant to designation by Steven K. Reviczky, the Commissioner of Agriculture.

At said hearing, Matthew E. Willis, Esq. represented the Town of Ellington and presented testimony, exhibits and arguments on behalf of the Town. The respondent and dog owner, Jeffrey Carlsen, was present at the hearing but abruptly left the hearing at approximately 9:14 am during the Municipality's opening statement.

Based on the testimony presented and a full review of the entire record, the Hearing Officer is recommending that the final decision maker *affirm* the Restraint Order issued on the dog Scarlett, owned by Jeffrey Carlsen.

## *II*

### *FINDINGS OF FACT*

1. Commissioner Steven K. Reviczky appointed Stephen Anderson, an employee of the Department of Agriculture, to act as Hearing Officer and to issue to him a proposed final decision in the matter of the appeal of a Restraint Order issued by the Town of Ellington on the dog named Scarlett, owned by Jeffrey Carlsen (dog owner) [Hearing Officer Exhibit (Ex.) HO-4].
2. The Department of Agriculture gave proper notice of the hearing to both parties [Ex. HO-5]. Pursuant to Connecticut General Statutes (C.G.S.) §22-358(h), an administrative hearing was held and concluded on October 18, 2018.
3. At the hearing on October 18, 2018, the Town of Ellington presented testimony and exhibits described herein as Town-1 through Town-7, inclusive and they were admitted into the record.
4. At the hearing on October 18, 2018, the dog owner left the room after interrupting the Town of Ellington's opening statement several times, and then stating he would file suit in Superior Court. No evidence was presented on the part of the dog owner, and he had no other representation at the hearing. The dog owner was instructed that the hearing would continue as scheduled and that his departure would be noted in the record.
5. The record shows that Scarlett, described as a six year old female, Pit Bull-Boxer mix breed [Ex. Town-4] was involved in a serious attack and bite incident in which two Chihuahua dogs were attacked, one which died from injuries sustained in the attack (Chloe) and another that had serious injuries but survived the attack (Zoey). The incident took place on June 15, 2018 at approximately 4:16 pm.

6. The owner of the dogs that were injured in the attack, Mark Liebler, testified that he was parked behind the Big Y with his dogs [see Transcript (Tr.) beginning on page 17]. He testified that he has a routine of going to McDonalds every couple of weeks, buying hamburgers and sharing them with his dogs near his car behind the Big Y where there is a grassy area to walk his dogs. He goes to the passenger side of his vehicle where he sits with his two dogs at his feet and shares the hamburgers with them. Mr. Liebler testified that, since he is feeding them the hamburgers, they are not prone to running off – he then leashes them and walks them.
7. Mr. Liebler testified that, on June 15<sup>th</sup> (the day of the attack), while feeding his dogs the hamburger, Chloe (mother to Zoey) disappeared, then Zoey ran off. Mr. Liebler testified that when he looked for Zoey he saw that a large black pit bull had Chloe in its jaws about 30 feet from Mr. Liebler’s car. He further testified that the pit bull was extremely aggressive during the attack.
8. When asked during his testimony what happened next, Mr. Liebler stated that the owner of the pit bull came running down the hill and when he was within earshot, he heard him calling out “Scarlett, Scarlett, let go, let go.”
9. Mr. Liebler was asked during his testimony if the owner of the pit bull ever identified himself by name, and he stated that he identified himself as Jeffrey Carlsen. Mr. Liebler was also asked during his testimony if Mr. Carlsen was present at the hearing, and he clearly identified him as the man who left the room earlier in the hearing.
10. The Animal Control Officer who investigated the attack, Gary Wilson, also testified at the hearing on October 18, 2018. ACO Wilson testified as to his qualifications which

included 23 years as an ACO and numerous certifications and trainings [see Tr. beginning on page 34].

11. ACO Wilson testified as to the contents and details contained in the Town's Ex. 5, titled Ellington Animal Control Case Report [see Tr. beginning on page 39].
12. ACO Wilson also testified about the phone call he had received from Ms. Liebler on June 18, 2018 reporting the attack, and his subsequent conversation with Mr. Liebler. ACO Wilson's reporting of these interviews was the same as that of Mr. Liebler's accounting of the incident in his testimony [Tr. beginning on page 36].
13. ACO Wilson also described his conversation with Mr. Carlsen when he called to report that his dog had attacked a dog. Through ACO Wilson's testimony, Attorney Willis established that Mr. Carlsen admitted to ACO Wilson that his dog was not on a leash, that Mr. Carlsen did not have control of his dog, and that Mr. Carlsen saw his dog with the other dog (Chloe) in Scarlett's mouth [Tr. beginning on page 40].
14. As Hearing Officer, I asked Mr. Liebler about his dogs being unleashed at the time of the attack – and whether he felt that he had control of his dogs. Mr. Liebler testified that he felt he had control of his dogs; they respond well to voice commands and they stay at his feet by the car [see Tr. beginning bottom of page 57]. Further, ACO Wilson added that Ellington has a control law vs. a leash law and that he thought Mr. Liebler had control of his dogs. ACO Wilson went on to state that one of Mr. Liebler's dogs was "ambushed" and the other dog ran off to defend the ambushed dog.
15. ACO Wilson, through his testimony, also established that Scarlett was involved in a second attack in the Town of Vernon [Ex. Town-6] in which Scarlett was identified as the aggressor, although at that time Scarlett was on her leash.

16. ACO Wilson was also asked about Ex. Town-4, the Animal Restraint Order he issued to Mr. Carlsen [see Tr. beginning on page 49]. ACO Wilson testified that the Restraint Order requires that every time Scarlett is outside of the residence, that she be muzzled and on a leash. When asked by Attorney Willis if the Restraint Order is a reasonable order designed to protect public safety, ACO Wilson said yes.
17. The Town also entered into evidence veterinary records, a necropsy report, and cremation record documenting the serious injuries sustained by Chloe and Zoey during the attack [Ex. Town-1, 2, 3 and 7].
18. After the hearing, on October 19, 2018, Jeffrey Carlsen submitted a document to the Department of Agriculture (and copied to the Town of Ellington's attorney). The document alleged, at least in part, that there was "hearsay" in Attorney Willis's opening statement and that there were "untrue admissions and statements" and "false reports documents and testimony" being presented. I have marked this submittal as Dog Owner (DO)-1 and placed it into the record. This document was provided to the Town of Ellington for response on November 26, 2018 (I have marked this submittal as Ex. HO-6) and on November 27, 2018, by e-mail notice the Town of Ellington's attorney stated that the Town would not be responding (I have marked this submittal as Ex. Town-8). Most, if not all of the content in DO-1 is irrelevant to the purpose of this hearing. In the opinion of the Hearing Officer, the testimony regarding the attack provided by Mr. Liebler and ACO Wilson is more credible than anything in DO-1, and that testimony is also supported by other evidence in the record.

### *III*

#### *CONCLUSIONS OF LAW*

C.G.S. §22-358(h) provides that “[t]he commissioner, the Chief Animal Control Officer or any animal control officer may make any order concerning the restraint or disposal of such attacking dog as the commissioner or such officer deems necessary.” It further provides in §22-358(h) that following a hearing on such order “the commissioner may affirm, modify or revoke such order as the commissioner deems proper.”

### *IV*

#### *DISCUSSION*

Acting under the authority of C.G.S. §22-358(h), the Town of Ellington Animal Control Officer, Gary Wilson, issued a Restraint Order to Mr. Jeffrey Carlsen, owner of the dog named Scarlett. Given that Scarlett has acted aggressively on at least two occasions between September 5, 2017 and June 15, 2018 (once while on a leash but the latest attack while off her property and off leash), it is the opinion of the Hearing Officer that there is a clear public safety issue. In the most recent attack, she killed one dog and severely injured a second dog. 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 Restraint Order.

V

***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 Restraint Order issued by the Town of Ellington on the dog named Scarlett, owned by Jeffrey Carlsen.

Dated: December 17, 2018

A handwritten signature in black ink, appearing to read "S. Anderson", written over a horizontal line.

Stephen Anderson

Hearing Officer