



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
Office of the Commissioner



Bryan P. Hurlburt
Commissioner

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October 7, 2020

William Doyle
473 Welch's Point Road
Milford, CT 06460
Via certified mail

EDMUND J. RAMOS
Business Consultant
139 Pine Knob Terrace
Milford, CT 06461
Via certified mail

DEBRA S. KELLY, ESQUIRE
Assistant City Attorney City Hall
110 River St.
Milford, CT 06460
Via certified mail

Mark Ruby, Milford Animal Control
664 East Broadway
Milford, CT 06460
Via certified mail

RE: PROPOSED FINAL DECISION IN THE MATTER OF THE APPEAL OF A DISPOSAL ORDER PLACED ON THE DOG "ALBERT" OWNED BY WILLIAM DOYLE

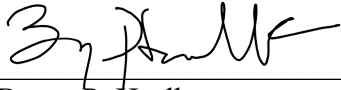
Dear Parties:

I am the final decision maker in the matter of the appeal of a Disposal Order for the dog named Albert owned by William Doyle. The Disposal Order was issued by the City of Milford and its animal control officer on May 3, 2019.

A Proposed Final Decision of the Hearing Officer, was served upon the parties on or about August 13, 2020, through notice from the undersigned. The notice afforded each party the opportunity to present exceptions or briefs and requests for oral arguments to the Commissioner, as the final decision maker. No exceptions, briefs or requests for oral arguments were received.

I have read the entire record in this matter. Upon due consideration of the entire record, I find there is not substantial evidence in the record to affirm the Disposal Order, and I hereby adopt the Proposed Final Decision of the hearing officer in its entirety as the final decision in this matter, with the correction of the dog's name from Cyprus to Albert on page 6 for the decision.

The Disposal Order is hereby revoked.

A handwritten signature in black ink, appearing to read "Bryan P. Hurlburt", written over a horizontal line.

Bryan P. Hurlburt
Commissioner

BPH:dbw

Enclosed: Proposed final decision

STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE

IN THE MATTER OF:

APPEAL OF A DISPOSAL ORDER
ISSUED BY THE CITY OF MERIDEN

“ALBERT”
Dog owned by William Doyle

November 15, 2019

PROPOSED FINAL DECISION

I, Dr. Bruce A. Sherman, the designated Hearing Officer in the Appeal of a Disposal Order issued by the City of Milford, in the Matter of dog named “Albert” owned by William Doyle, hereby issue the Proposed Final Decision in this matter. I have thoroughly reviewed the entire record, including the transcript of the hearing, all of the admitted exhibits, and all other related submissions of the parties. The Proposed Final Decision recommends revoking the Disposal Order as follows:

FINDINGS OF FACT

- 1) Commissioner Bryan P. Hurlburt appointed me, Dr. Bruce Sherman, to act as Hearing Officer in this matter and to issue to him a Proposed Final Decision. Connecticut General Statute (C.G.S.) §4-179. Hearing Officer (“HO”) Exhibit (“Ex.”) 3. On October 21, 2019, the Notice of Hearing was sent via certified mail/return receipt to the City of Milford (“the Town”) and its representatives and the owner of the animal subject to this appeal, William Doyle, for a hearing that was scheduled for and was held and concluded on November 15, 2019. Ex. HO 4. There was no request by the parties to continue the hearing, to call additional witnesses, or for any other reason. Transcript (Tr.) at page 92 and in its entirety.

- 2) At issue is the appeal of a Disposal Order issued by the Town on May 3, 2019 to William Doyle (“dog owner”) concerning the dog named Albert. The Disposal Order was issued as a result of a May 3, 2019 dog bite incident in which Albert, while under a previously issued restraint order, bit Melissa Stanislawski. Ex T 8. Tr. at page 43. Albert is described as a tan, neutered male, Pitt Bull of approximately 10 years of age on May 3, 2019. Ex. T 8. Tr. at page 71.

- 3) The Town offered the testimony of Milford Animal Control Officer Mark Ruby (ACO Ruby) and Exs. T 1 through and including T 8. The Town was represented by Milford Assistant City Attorney Debra S. Kelly. The dog owner, William Doyle, although not represented by counsel, offered testimony during direct examination by Edmund J. Ramos who assisted Mr. Doyle during the hearing proceedings. The dog owner did not provide any exhibits for entry into the record.
- 4) ACO Ruby testified that he is an Assistant Animal Control Officer for the City of Milford and has worked for the City of Milford for approximately 9 years. Tr. at page 12.
- 5) The Town presented evidence based on information contained in Milford Animal Control Field Activity Records, each identified and described by ACO Ruby in his testimony, of thirteen (13) incidents involving the dog Albert that occurred from 2010 to and including 2013. Of those incidents, eleven (11) involved roaming; one involved Albert biting another dog; and one involved Albert biting a person. The Town issued two (2) infractions for roaming during that period of time. The Field Activity Records for roaming violation incidents show that, at the time, Albert was not owned by William Doyle but was owned by Scot Nadeau and Gary Becroft. Tr. at pages 16 – 22. Ex. T1.
- 6) On July 17, 2012, a dog bite incident occurred involving Albert, cited in #5) above, at the Beth El Shelter soup kitchen and was reported by Milford Hospital Walk-In Center where the victim, Jaimi Wasson, was treated for the bite injury. ACO Ruby testified that he did not prepare the Animal Bite/Attack report documenting the incident in which the owner is identified as Billy Doyle of 158 Chapel St., Milford, CT. ACO Ruby stated that, from the report, Wassan went outside to feed a dog owned by a person eating lunch in the soup kitchen and was bitten in the face. ACO Ruby did not know whether the dog was inside a vehicle at the time. Albert was quarantined at the Milford pound for 14 days and released to William Doyle. Tr. at pages 25 – 28. Ex. T2.
- 7) On 8/26/2013, Albert bit a dog as documented in a Field Activity Report and the testimony of ACO Ruby. Albert's owner was identified as Bill Doyle of 158 Chapel St., Milford, CT. Milford Animal Control impounded Albert. ACO Ruby testified that he did not know when Albert was released but he was released to William Doyle. Tr. at pages 29 – 30. Ex. T3.

- 8) On 6/11/2014, a dog bite incident occurred in the parking lot of Beth El shelter in Milford in which Albert bit Shelby Spivey. Albert was in a truck in the parking lot. While Spivey was walking by the truck, she stopped to say “hello” when Albert stuck his head out of the truck and bit her on the collar bone. The Milford Police Department reported the incident Milford Animal Control quarantined for 14 days and then released to William Doyle. No restraint order was issued, or other action taken by the Milford ACO. Tr. at pages 31 – 32. Ex. T4

- 9) On April 10, 2015, a dog bite incident occurred at 158 Chapel St. in Milford in which Albert bit Waltravd Miller. Miller was visiting her son who lived at the same residence as William Doyle, Albert’s owner. Albert saw the victim in a hallway, ran at her and bit her hand. She received medical treatment at Milford Hospital Walk-In Urgent Care who reported the incident. Tr. at pages 31 -34. Ex. T5.

- 10) ACO Ruby testified that a dog bite incident occurred on July 23, 2017, that was reported by Milford ER where the victim, Mathew Keakey was treated for a facial bite. The incident was reported by a worker at the ER who also identified the owner of the offending dog as William Doyle of 473 Welch’s point Rd., Milford, CT. The incident occurred on Gary Becroft’s property at 583 Anderson Ave., Milford, CT. ACO Ruby testified that he thought that William Doyle intentionally avoided Milford animal control officials to prevent them from taking his dog. The Town offered no substantial evidence in support ACO Ruby’s testimony about William Doyle’s intentional avoidance of Milford Animal Control official other than an incomplete Animal Bite Attack Report characterized by ACO Ruby as a matter of record. Tr. at pages 34 – 39. Ex. T6.

- 11) On July 7, 2018, Officer Chris Lennon of the Milford Police Department was directing traffic at a construction site at 160 Rock Lane in Milford when Albert bit him on the top of the foot. William Doyle of 473 Welch’s Point Rd., Milford, CT was identified as Albert’s owner. ACO Ruby testified that William Doyle was working near where the incident took place when Albert escaped and bit Officer Lennon. Milford Animal Control quarantined Albert and issued a Restraint Order. Albert was released after the quarantine period back to William Doyle under the conditions of the restraint order. ACO Ruby testified that, at the time of Albert’s release, both he and Assistant ACO Connors explained to William Doyle that if he did not comply with the conditions of the restraint order or if Albert bit again, that a disposal order would be issued. He also testified that William Doyle stated to him and Assistant ACO Connors that he would not comply with the conditions of the restraint order. Tr. at pages 39 – 43. Ex. T7.

- 12) On May 3, 2019, Albert bit Melissa Stanislawski on her face and left wrist. The incident was reported by the Milford Hospital ER where she received medical treatment. Albert's owner was identified as William Doyle of 473 Welch's Point Rd., Milford, CT and the incident occurred at 161 Rock Lane. ACO Ruby, who handled the complaint, testified that they were unable to interview the victim, who had no known telephone number or address, to ascertain. As a result, they could not ascertain from the victim what truly happened. He stated that the narrative describing the circumstances of the bite incident was based solely on what was communicated by a gentleman working at the Milford Hospital ER at the time the victim received medical treatment. ACO Ruby stated that the victim was at the jobsite in and around William Doyle's truck with the dog and Albert attacked the victim unprovoked biting her in the face and left wrist. Tr. at pages 43 – 46. Ex. T8.
- 13) William Doyle testified that, when he left his house to go to work on May 3, 2019, he had Albert leashed and muzzled when he put him in his truck. He stopped at Gary Becroft's residence to walk Albert and feed his cat. After asking if he needed help, Melissa Stanislawski, who was at Becroft's residence, got in his truck. William Doyle then drove to his yard where he keeps his work supplies at 161 Rock Lane in Milford with Albert sitting between him and Stanislawski. After they arrived, Stanislawski said she couldn't help him because she only had slippers on so he got out of the truck and started loading it himself with Stanislawski standing by the right front fender of the truck. William Doyle stated, that when he got out of the truck, Albert was still muzzled but was not leashed. After 5 or 10 minutes, William Doyle heard Albert bark and Stanislawski scream. She told William Doyle that Albert bit her. Stanislawski would not ride in the truck with Albert in it, so William Doyle drove back to his residence at 473 Welch's Point Road to leave Albert and then returned to take Stanislawski to the hospital. William Doyle testified that he did not see the bite occur or know why Albert did not have the muzzle on at the time of the bite. He said he had put the muzzle on tightly and assumed that Stanislawski removed it. He informed a person at Milford Hospital that Albert was not his dog fearing that Albert would be taken away from him. Tr. at pages 75 – 83.
- 14) ACO Ruby testified that the previously issued Restraint Order was in place May 3, 2019 and was violated when Albert bit Melissa Stanislawski. He stated that, as part of the conditions Restraint Order, Albert was required to be leashed and muzzled when off the owner's premises. The bite incident took place off the primary residence and Albert was not muzzled. Tr. at pages 46 – 47. Ex. T8.

15) On May 3, 2019, ACO Ruby issued a Disposal Order to William Doyle on his dog Albert. He testified that the Disposal Order was issued as a result of the Restraint Order being violated when the May 3, 2019 bite incident occurred. The narrative of Disposal Order described the incident as unprovoked based on what was reported by the Milford Hospital E.R. During the course of his testimony, ACO Ruby stated: (1) that he did not think that William Doyle was capable of retaining custody of Albert in a safe manner; (2) that William Doyle was reluctant to follow the Restraint Order even though he knew that a Disposal Order would be issued on Albert if the Restraint Order was violated; (3) that most of the bite incidents in which Albert was involved were off-property (premises) bites, with one exception (April 10, 2015); and that most of the bite incidents in which Albert was involved were unprovoked by the victims, with one possible exception (June 11, 2014). (See paragraphs #8. And #9. Above). Transcript at pages 47 – 51. Ex. T8.

16) On cross examination, ACO Ruby stated that he did not witness any of the bite incidents. Tr. at page 51. His testimony made it clear that the town had insufficient evidence to support the assertion that the three bite incidents were unprovoked that occurred when Albert was in William Doyle's truck. Tr. at pages 52 – 64. In regard to the May 3, 2019 bite incident that resulted in the issuance of the Disposal Order, ACO Ruby said that he considered that bite to be unprovoked based on the facts that he had. And there was never anything relayed to them (Milford Animal Control), even by William Doyle, that would contradict it being an unprovoked attack. Transcript at page 66. ACO Ruby also testified that he felt if a dog bit while in its owner's vehicle he would consider such bite to have occurred on the owner's premises but qualified his answer by saying it might depend on whether the biting dogs head was inside or outside of the vehicle at the time of the bite. Tr. at pages 73 -74.

LEGAL CONCLUSION

Connecticut General Statute §22-358(c) provides that “the commissioner, the Chief Animal Control Officer, any municipal animal control officer . . . may make any order concerning the restraint or disposal of any biting dog or other animal as the Commissioner or such officer deems necessary.” It further provides that following a hearing on such order the Commissioner may affirm, modify or revoke such order as the Commissioner deems proper.”

Upon careful consideration of the entire record, including the hearing testimony and exhibits, and, after much reflection, I find that there is not a preponderance of evidence in the record to recommend affirming the Disposal Order on the dog Albert.

ACO Ruby, the Town's only witness, was credible throughout, but did not have first-hand knowledge in describing roaming and bite incidents involving Albert on which the Town presented as evidence in support of issuance of the Disposal Order. The Town's evidence of the incidents was limited predominantly to "Field Activity Records" and not supported by more substantial and reliable forms of evidence including incident investigation reports, live testimony and sworn statements.

ACO Ruby stated that the Disposal Order was issued to William Doyle on his dog Albert because the previously issued Restraint Order was violated when Albert bit Melissa Stanislowski on May 3, 2019. Ex. T8. He testified that he and Assistant ACO Connors explained to William Doyle that if he did not comply with the conditions of the restraint order or if Albert bit again, that a disposal order would be issued. The May 3, 2019 bite incident is characterized as unprovoked in the "Circumstances or History" section of the order. The Disposal Order also states that the penalty for violation of the order is a Class D misdemeanor and the animal may be subject to seizure to ensure compliance with the owner being responsible for any expenses resulting from such seizures. However, the Restraint Order does not state that if it is violated or Albert bites again a Disposal Order will be issued as was told to William Doyle.

The Town did not present evidence that was sufficiently reliable to establish that the circumstances surrounding May 3, 2019 bite incident constituted a violation of the Restraint Order or to substantiate that the bite was of an unprovoked nature. No evidence was presented for consideration through live testimony or sworn witness or victim statements or through an incident investigation report. Instead, ACO Ruby based his decision to issue the Disposal Order solely on hearsay evidence. That evidence was from a worker at the hospital where Melissa Stanislowski received medical treatment who reported what she told him in regard to the circumstances of the May 3, 2019 bite incident. Moreover, ACO Ruby issued the Disposal Order on May 3, 2019, the same day that the bite incident occurred, without any further investigation into the circumstances of the incidence other than his conversation with William Doyle.

The record shows that William Doyle has not completely met his obligations as a responsible dog owner as demonstrated by his lack of maintaining a current dog license for Albert and his denial, at first, that he was Albert's owner at the time of the May 3, 2019 bite incident. Nevertheless, his testimony was credible

and raised enough doubt as to whether the circumstances of the May 3, 2019 bite incident constituted a violation of the Restraint Order as written.

The Town failed to establish that Albert's behavior is such that it reaches the threshold required for issuance of a Disposal Order. The record, considered in its entirety, does not show that Albert's behavior is of a sufficiently vicious and dangerous nature to justify the issuance of a Disposal Order as the only means to adequately protect public safety.

Given the totality of the evidence, I find that there is not a preponderance of the evidence in the record to affirm the Town's disposal order and therefore the Disposal Order should be revoked. The Restraint Order is unaffected by this proposed final decision and remains in place.

Dated: August 7, 2020

A handwritten signature in blue ink that reads "Bruce A. Sherman". The signature is fluid and cursive, with a long horizontal flourish at the end.

Bruce A. Sherman, DVM, MPH
Hearing Officer