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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY  
COURT OF COMMON PLEAS

M 2893

MARVIN H. DUKES, III, MASTER-IN-EQUITY,  
BEAUFORT COUNTY  
TRIAL COURT CASE NO.: 2013CP0700918

APPELLATE CASE NO.: 2014-000636

THE STATE,

Respondent,

vs.

MARE BARACCO,

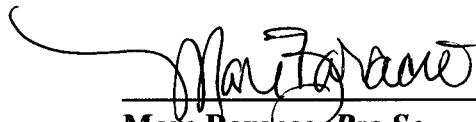
Appellant.

**RECEIVED**

JUL 17 2014

**SC Court of Appeals**

MOTION TO DISMISS



Mare Baracco, Pro Se  
1006 Madrid Avenue  
Port Royal, South Carolina 29935  
(843) 592-1062

Date: July 16, 2014

Appellant hereby petitions this court for an Order dismissing Respondent's Notice of Dangerous Animal against her, based on the following grounds:

Due to an incident July 4, 2012, between Appellant's dog, Bodi, and her neighbor's dog, Zoey, Appellant was issued, by the Town of Port Royal (where Appellant resides) Uniform Traffic Ticket Number 39533FY, which had a bond of \$1,092.50, based on an alleged Ordinance Violation of the Town of Port Royal, under Animal Control Ordinance "*Animal-at-Large*" Section 3-53.

On July 5, 2012, Beaufort County Sheriff's Department Animal Control Officer (hereinafter "BCSOACO") Brittany Chaplin went to Appellant's residence, pursuant to Port Royal's Code of Ordinances for Animal Control, to perform a determination of the subject dog, Bodi, per Code 3-53, regarding the events of July 4<sup>th</sup>. During this determination, Officer Chaplin took the statements of Appellant and her husband and observed their dog, Bodi. Officer Chaplin reported, in writing, that based on her observations of the subject dog, Bodi, she did not find him to be dangerous and was, in fact, impressed with Bodi.

On or about July 6, 2012, Zoey died allegedly as a result of the encounter between her and Bodi on July 4<sup>th</sup>.

On July 9, 2012, five (5) days after the initial encounter between the dogs; four (4) days after Officer Chaplin observed, determined, and reported that Bodi was not dangerous and so reported; and three (3) days after the death of Zoey, without any further contact or observations by Animal Control Officer(s) of Appellants dog, Bodi; Appellant was issued a notice the State

had made a *sua sponte* decision that the Appellant's dog, Bodi, was now determined, by their standards to be a "*Dangerous Animal*" under the Unincorporated Beaufort County Ordinance Section 14-35. The Appellant was bewildered by the actions of the State, as the incident occurred in the municipality of the Town of Port Royal, which, according to SC §47-3-20 allows for the governing body of each county or municipality in the State to enact ordinances and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations.

Considering the incident occurred on the Defendant's property, in the municipality of the Town of Port Royal, Appellant immediately began researching the issue of the *Notice of Dangerous Animal*. Finding no written policies or procedures concerning an issue such as this, Appellant met with Lt. Spencer/BCSO (BCSOACO Chaplin's Superior Officer) on July 10, 2012. Lt. Spencer instructed the Appellant to write a letter of protest to the Beaufort County Magistrate's office, protesting the issuance of a Notice of Dangerous Animal based on the Unincorporated Beaufort County's Ordinance Section 14-35.

The July 9, 2012 Unincorporated Beaufort County Official Notice of Section 14-35 "*Dangerous Animal*" provided immediate requirements upon the Appellant that were required to be adhered to within seventy-two (72) hours of the July 9, 2012/2:30 p.m. issuance of this Notice. These requirements included, but were not limited to: (1) securely confining the alleged dangerous animal within an occupied house or residence or in a securely enclosed and locked pen or kennel appropriate to the size of the animal. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape and release of the animal. (2) The dangerous animal must not go outside its kennel or pen unless the animal is securely leashed and

muzzled with a leash no longer than six (6') feet in length and under the actual physical control of a person 18 years of age or older. (3) The person owning, keeping, sheltering or harboring the animal must register the animal with Beaufort County Animal Shelter within the required seventy-two hour timeframe and provide proof of liability insurance of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. (4) The person owning, keeping, sheltering or harboring the dangerous animal shall have an identification microchip implant under the animal's skin by a licensed veterinarian within the required seventy-two hour timeframe. The Penalties for failure to comply with these requirements within seventy-two hours of the date and time listed on this notice would result in the responsible party being fined in the amount up to \$1,092.50; the dangerous animal removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-35 of the Beaufort County Ordinance pending the decision of the Court.

Appellant would note that issuance of the Town of Port Royal Ordinance 3-53 (the Ordinance she was also charged with violating based on this occurrence) also included fines and potential seizure of her personal property, her dog, Bodi.

In South Carolina law, as in many other States, an animal is considered personal property and has at no time, ever been adjudicated in South Carolina to be anything other than personal property.

Subsequent to July 9, 2012, Appellant was summoned to a trial in Beaufort County, as the Defendant, in "*State of South Carolina v. Mare Baracco*" on August 8, 2012, presided over by Judge Kline, of the Beaufort County Magistrate Court, who erroneously upheld the Unincorporated Beaufort County Ordinance 14-35 – *Notice of Dangerous Animal*.

Shortly thereafter, Appellant was acquitted, on November 8, 2012, in the Town of Port Royal, of the entirety of the violation of the Town of Port Royal Ordinance 3-53.

Post Appellant's acquittal, on December 28, 2012, Judge Marvin Dukes, Beaufort County Master-in-Equity, overturned Judge Kline's ruling from the August 8, 2012 hearing on Appeal and remanded the case back to the lower court.

Appellant was again summoned to Beaufort County Magistrate Court, as a Defendant, for a Civil Hearing March 12, 2013, and was to be tried again before Judge Richard Brooks. At the first hearing in Beaufort County Magistrate Court, Appellant was summoned as the Defendant and the State of South Carolina was the Plaintiff. The State of South Carolina acted as the prosecutor in the initial trial. However, at the second trial, and upon motion by the prosecution, the State of South Carolina, the matter was suddenly turned into an appeal of Beaufort County Ordinance Section 14-35. Therefore, Judge Richard Brooks turned his Court into an appellate judicial review to make a determination that Beaufort County had correctly, and had the authority, to issue the Notice of Dangerous Animal based on said Beaufort County Ordinance (the unincorporated areas of Beaufort County); despite Appellant being a resident of the Town of Port Royal, a recognized South Carolina municipality with its own Ordinances.

Further, Beaufort County and the Town of Port Royal allegedly correctly entered into Mutual Aid Agreements for, among other things, law enforcement assistance. Although the actual Mutual Aid Agreement with Beaufort County was signed by the Chief of Police for the Town of Port Royal on June 5, 2012, and per the Agreement it was in effect and legally binding when signed by each agency executive, it was not approved prior to the execution of the same by the Town of Port Royal Council, nor was the Chief of Police authorized by Council to enter into said Mutual Aid Agreement. Council Authorization was given by resolution on September 12,

2012. This Agreement clearly shows that the County and this Municipality recognized each other's jurisdictions. And, in fact, this Agreement states in part that the *...that person shall in turn be under the direction and authority of the host jurisdiction to which they are called to perform law enforcement or peace duties. All arrests and any enforcement actions and prosecution shall remain within the jurisdiction where such actions would be properly brought in absence of this agreement.*

Appellant makes this motion to dismiss, based upon the lack of subject matter jurisdiction and territorial jurisdiction of the Beaufort County Magistrate Court in South Carolina to hear this case on March 12, 2013 or at any other time. Appellant cites South Carolina Summary Court Judges Bench Book, B., Magistrate Court in Civil Actions, 1 Jurisdiction, Section § 22-3-20, regarding Subject Matter Jurisdiction: *Section 22-3-20 further limits a magistrate's jurisdiction by prohibiting his hearing civil cases in which the State is a party, except actions for penalties not exceeding \$100, and for disputes as to title in real property matters except as provided in §§ 22-3-1110 - 22-3-1180. Jurisdiction may not be waived or conferred upon the magistrate by consent of the parties or by order of a higher court.* And, Magistrates have criminal trial jurisdiction over all offenses which are subject to the penalty of a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both. (S.C. Code Ann. § 22-3-550). As noted above, the fine for not adhering to the Notice of Dangerous Animal carried a fine of a \$1,092.50. In addition, S.C. Code Ann. § 22-3-545 provides that magistrates may hear cases transferred from general sessions, the penalty for which does not exceed one year imprisonment or a fine of \$5,000, or both, **upon petition by the solicitor and agreement by the defendant.** [Emphasis added]. Appellant would also note that the cost alone of the additional liability insurance

Appellant was required to purchase, within seventy-two hours of issuance of the Notice, July 9, 2012, was \$578.13 for the calendar year 2012-2013 and \$588.30 for the following calendar year.

**Municipal courts have jurisdiction over cases arising under ordinances of the municipality**, [emphasis added] and over all offenses which are subject to a fine not exceeding \$500.00 or imprisonment not exceeding 30 days, or both, and which occur within the municipality. Such courts are part of the unified judicial system. It should be noted, however, that a municipality may, upon prior agreement with county governing body, prosecute its cases in magistrate court, **in lieu of establishing its own municipal court**. [emphasis added]. In addition, the council may establish, by ordinance, a municipal court, and contract with the county governing authority for the services of a magistrate to serve as its municipal judge. The Chief Justice, pursuant to his/her powers as administrative head of the unified judicial system, would, in turn, delegate authority to the Chief Summary Court Judge of the county to assign a specific magistrate as municipal judge.

The Town of Port Royal established its own municipal court (Ordinance 14-1) and appoints its own Municipal Judge (Ordinance 14-2). It does not contract, nor has it contracted, with Beaufort County for these services.

Appellant cites the following, in regard to Subject Matter Jurisdiction: Appellant was summoned to the March 12, 2013, Hearing as the Defendant and was summarily designated the Appellant upon commencement of this hearing, in effect ambushing the Defendant and turning the hearing into an Appellate Judicial review by Judge Brooks. As cited above, Magistrates are limited in their capacities to sit in matters involving appeals and there are no existing administrative codes from any municipality that provides for judicial review in a magistrate court.

Appellant cites the following, in regard to Territorial Jurisdiction: Appellant is a resident of the Town of Port Royal, a municipality, and as such is responsive to the code of ordinances which governs its residents. As referenced earlier in this summary, according to SC §47-3-20 the Town of Port Royal may establish its own ordinances for Animal Control, and they did. According to the Town of Port Royal's Animal Control Ordinance, Sec 3-51 (2), "*Animal control officer*: Any person designated by the county administrator and/or commissioned to perform such duties under the laws of the state. Sec 3-53 d. *Vicious animals*. Every vicious animal, as determined by the animal control officer, magistrate or licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner. Sec. 3-54 (a) *Seizure of animals running at large generally*. Any dog, vicious animal or cat running at large may be taken up by the animal control officer and transported to the county animal shelter and there confined in a humane manner for a period of not less than three (3) days and may thereafter be disposed of in a humane manner if not claimed by the owner.

Therefore, whomever is the designated "*Animal Control Officer*" by the County Administrator, whether it be the Beaufort County Sheriff's Department (who is no longer designated as Animal Control, effective July 2013), the local Animal Shelter Animal Services department in Beaufort County, who is presently assigned these duties, or some other approved agent, they are still required to follow the law (in this case "Code of Ordinances") in the jurisdiction they are called to assist, not the ordinances from *their* jurisdiction, unincorporated or otherwise.

Appellant lives in and is under the auspices of the Town of Port Royal. Therefore, while lawful, under the Town of Port Royal's Animal Control Ordinances, for BCSOACO Chaplin to

provide the determination, Officer Chaplin should have followed the Code of Ordinances and jurisdiction where the incident occurred, which was the Town of Port Royal, *not* Unincorporated Beaufort County. A criminal ordinance violation under Port Royal 3-53 had already been issued by the policing authority of the jurisdiction, a duly authorized officer from the Town of Port Royal, and a court date set for a hearing in the Town of Port Royal Municipal Court. The subsequent visit by a BCSOACO on July 9, with an issuance of a violation of *their* ordinance from Unincorporated Beaufort County 14-35 was, in effect, charging Appellant twice, with the same crime, and having Appellant appear in Beaufort County Magistrate Court. In addition, Unincorporated Beaufort County Ordinance 14-35 cannot be enforced in the Town of Port Royal, as the Town of Port Royal Police Department does not have jurisdiction, within the confines of their municipality, to enforce Unincorporated Beaufort County Ordinances, and conversely, the Beaufort County does not have jurisdiction, within the municipality of the Town of Port Royal, to enforce Unincorporated Beaufort County ordinances, unless each of them adopts the ordinances of the other.

For the following reasons, Appellant prays for dismissal of the Notice of Dangerous Animal.

**Authorities ii**

STATUTES

S.C. Code Ann. §22-3-20  
S.C. Code Ann. §22-3-545  
S.C. Code Ann. §22-3-550  
S.C. Code Ann. §47- 3-20

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OTHER AUTHORITIES

Magistrate Law in Civil Actions

Town of Port Royal Code of Ordinance 14-1

Town of Port Royal Code of Ordinance 14-2

Town of Port Royal Code of Ordinance 3-51(2)

Town of Port Royal Code of Ordinance 3-53

Town of Port Royal Code of Ordinance 3-54

Town of Port Royal Uniform Traffic Ticket Number 39533 FY - Violation 3-53, and Code of Ordinance/Penalties

Supplemental Investigation Report of Beaufort County Animal Control Officer Brittany Chapman Case Number 201220709-508

Unincorporated Beaufort County Notice of Dangerous Animal Pursuant to 14-35, and Code of Ordinance/Penalties

Copies of Paid Liability Insurance

Mutual Aid Agreement dated June 5, 2012

Town of Port Royal Resolution 6-2012 of September 12, 2012

Magistrate Summons to March 2013 Civil Trial

March 12, 2013 Transcript, Sheet one and two;  
Page 4, Lines 1-25; Page 5, Lines 1-4

HISTORY: 1962 Code Section 43-51; 1952 Code Section 43-51; 1942 Code Section 257; 1932 Code Section 257; Civ. P. '22 Section 213; Civ. P. '12 Section 80; Civ. P. '02 Section 71; 1870 (14) 74; 1879 (17) 28; 1964 (53) 2165; Const. Art. 5 Sections 20, 21; 1976 Act No. 690, Art. IV, Sections 1, 2; 1979 Act No. 164, Part I, Section 5; 1988 Act No. 681, Section 1; 1994 Act No. 488, Section 1; 1997 Act No. 48, Section 1; 2000 Act No. 226, Section 13; 2002 Act No. 184, Section 1; 2004 Act No. 180, Section 1.

**SECTION 22-3-20.** Civil actions in which magistrate has no jurisdiction.

No magistrate shall have cognizance of a civil action:

(1) In which the State is a party, except an action for a penalty and not exceeding one hundred dollars; or

(2) When the title to real property shall come in question, except as provided in Article 11 of this chapter.

HISTORY: 1962 Code Section 43-52; 1952 Code Section 43-52; 1942 Code Section 264; 1932 Code Section 264; Civ. P. '22 Section 220; Civ. P. '12 Section 87; Civ. P. '02 Section 78; 1870 (14) 81; 1873 (15) 496.

**SECTION 22-3-25.** Interpleader actions.

(A) In compliance with Section 22-3-20(2) and Article 11 of this chapter, actions in the nature of interpleader arising from real estate contracts for the recovery of earnest money, in which the value of the money that is the subject of the action does not exceed the jurisdictional limit of the magistrates court, may be filed in magistrates court under the provisions of this section. The fee for an action in the nature of interpleader filed in magistrates court is as provided in Section 8-21-1010(6) with service fees as provided by law.

(B) The failure of a competing claimant to recover in an interpleader action must not be considered as a judgment against the claimant and must not be used to impair the credit of the claimant.

(C) The Office of Court Administration must design appropriate legal forms for proceeding under this section and make those forms available for distribution.

HISTORY: 2002 Act No. 184, Section 2.

**SECTION 22-3-30.** Counterclaim requiring transfer to court of common pleas.

When a counterclaim is filed which if successful would exceed the magistrates' civil jurisdictional amount as provided in Section 22-3-10, then the initial claim and counterclaim must be transferred to the docket of the common pleas court for that judicial circuit.

HISTORY: 1988 Act No. 678, Part I, Section 8; 1997 Act No. 48, Section 2.

ARTICLE 3.

CIVIL PROCEDURE FILING AND EXECUTION OF JUDGMENTS

**SECTIONS 22-3-110 to 22-3-290.** Omitted by 2008 Act No. 267, Section 1, eff June 4, 2008.

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**SECTIONS 22-3-110 to 22-3-290.** Omitted by 2008 Act No. 267, Section 1, eff June 4, 2008.

**SECTION 22-3-300.** Filing and docketing judgments of magistrates.

A magistrate, on the demand of a party in whose favor he shall have rendered a judgment, shall give a transcript thereof which may be filed and docketed in the office of the circuit court of the county in which the judgment was rendered. The time of the receipt of the transcript by the clerk shall be noted thereon and entered in the abstract of judgments and from that time the judgment shall be a judgment of the circuit court, but no sale shall be made under any execution issued upon such judgment in the circuit court until the time for appeal from the judgment in the magistrates court has expired, nor pending such appeal. If the judgment is set aside in the magistrates court, it shall have the effect of setting aside the judgment filed and docketed in the circuit court. The filing and docketing of such transcript in the circuit court shall not affect the right of the magistrate to grant a new trial. A certified transcript of such judgment may be filed and docketed in the clerk's office of any other county and with like effect in every respect as in the county in which the judgment was rendered.

HISTORY: 1962 Code Section 43-100; 1952 Code Section 43-100; 1942 Code Section 273; 1932 Code Section 273; Civ. P. '22 Section 229; Civ. P. '12 Section 96; Civ.

P. '02 Section 87; 1870 (14) 90; 1887 (19) 831; 2008 Act No. 267, Section 1, eff June 4, 2008.

**SECTION 22-3-310.** Executions on magistrates' judgments; effect of appeal thereon.

Execution may be issued on a judgment heretofore or hereafter rendered in a magistrates court at any time within three years after the rendition thereof and shall be returnable sixty days from its date. But no sale shall be made under any such execution until after the time for appeal has expired, nor pending such appeal, and in cases for the claim and delivery of personal property when bond for the property claimed has been properly given by either party, the status of such property shall not be changed until after the expiration of the time for appealing has expired or until such appeal has terminated.

HISTORY: 1962 Code Section 43-101; 1952 Code Section 43-101; 1942 Code Section 274; 1932 Code Section 274; Civ. P. '22 Section 230; Civ. P. '12 Section 97; Civ. P. '02 Section 88; 1887 (19) 787, 832; 1896 (22) 13; 2008 Act No. 267, Section 1, eff June 4, 2008.

**SECTION 22-3-320.** Execution when judgment docketed.

If the judgment be docketed with the clerk of the circuit court, the execution shall be issued by him to the sheriff of the county and have the same effect and be executed in the same manner as other executions and judgments of the circuit court.

HISTORY: 1962 Code Section 43-102; 1952 Code Section 43-102; 1942 Code Section 274; 1932 Code Section 274; Civ. P. '22 Section 230; Civ. P. '12 Section 97; Civ. P. '02 Section 88; 1887 (19) 787; 1896 (22) 13; 2008 Act No. 267, Section 1, eff June 4, 2008.

**SECTION 22-3-330.** Courtesy summons.

Notwithstanding another provision of law, a person charged with any misdemeanor offense requiring a warrant signed by nonlaw enforcement personnel to ensure the arrest of a person must be given a courtesy summons.

HISTORY: 2008 Act No. 267, Section 1, eff June 4, 2008.

**SECTION 22-3-340.** Assessments on filings.

An assessment equal to twenty-five dollars is imposed on all summons and complaint filings in magistrates court and an assessment equal to ten dollars is imposed on all other civil filings in magistrates court, except for restraining orders. The fees must be collected by the magistrates court and forwarded monthly to the county treasurer and remitted in turn by the county treasurer to the State Treasurer for allocation to the judicial department.

HISTORY: 2008 Act No. 353, Section 2, Pt 23A, eff July 1, 2009.

ARTICLE 5.

CRIMINAL JURISDICTION

**SECTION 22-3-510.** Criminal jurisdiction abolished in counties where county courts established.

The jurisdiction of magistrates in criminal cases in all counties wherein a county court is established under the provisions of Chapter 9 of Title 14 is hereby abolished.

HISTORY: 1962 Code Section 43-69; 1952 Code Section 43-69; 1942 Code Section 94; 1932 Code Section 94; Civ. P. '22 Section 91; Civ. C. '12 Section 3866; Civ. C. '02 Section 2769; 1900 (23) 322; 1963 (53) 252.

**SECTION 22-3-520.** Jurisdiction limited to county.

Magistrates shall have and exercise within their respective counties all the powers, authority and jurisdiction in criminal cases herein set forth.

HISTORY: 1962 Code Section 43-61; 1952 Code Section 43-61; 1942 Code Section 922; 1932 Code Section 922; Cr. P. '22 Section 18; Cr. C. '12 Section 19; Cr. C. '02 Section 11; G. S. 822; R. S. 10; 1870 (14) 402.

**SECTION 22-3-530.** Trial in district where offense committed.

In counties where magistrates are given separate and exclusive territorial jurisdiction, criminal cases shall be tried in the district in which the offense was committed, unless the place of trial be changed to another district in the same county in the manner prescribed by law.

HISTORY: 1962 Code Section 43-62; 1952 Code Section 43-62; 1942 Code Section 3709; 1932 Code Section 3709; Civ. C. '22 Section 2243; Civ. C. '12 Section 1393; Civ. C. '02 Section 985; 1897 (22) 472.

**SECTION 22-3-540.** Exclusive and concurrent jurisdiction.

Magistrates shall have exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days, except cases in which an offense within the jurisdiction of a magistrate is included in the charge of an offense beyond his jurisdiction or when it is permissible to join a charge of an offense within his jurisdiction with one or more of which the magistrate has no jurisdiction. Magistrates shall have concurrent but not exclusive jurisdiction in the excepted cases. The provisions of this section shall not be construed so as to limit the jurisdiction of any magistrate whose jurisdiction has been extended beyond that stated above.

HISTORY: 1962 Code Section 43-68; 1952 Code Section 43-68; 1942 Code Section 3709; 1932 Code Section 3709; Civ. C. '22 Section 2243; Civ. C. '12 Section 1393; Civ. C. '02 Section 985; 1897 (22) 472; 1951 (47) 442.

**SECTION 22-3-545.** Transfer of certain criminal cases from general sessions court.

(A) Notwithstanding the provisions of Sections 22-3-540 and 22-3-550, a criminal case, the penalty for which the crime in the case does not exceed five thousand five hundred dollars or one year imprisonment, or both, either as originally charged or as charged pursuant to the terms of a plea agreement, may be transferred from general sessions court if the provisions of this section are followed.

(B)(1) The solicitor, upon ten days' written notice to the defendant, may petition a circuit court judge in the circuit to transfer one or more cases from the general sessions court docket to a docket of a magistrates or municipal court in the circuit for disposition. The solicitor's notice must fully apprise the defendant of his right to have his case heard in general sessions court. The notice must include the difference in jury size in magistrates or municipal court and in general sessions court. The case may be transferred from the general sessions court unless the defendant objects after notification by the solicitor pursuant to the provisions of this item. The objection may be made orally or in writing at any time prior to the trial of the case or prior to the entry of a guilty plea. The objection may be made to the chief judge for administrative purposes in the judicial circuit where the charges are pending, the trial judge, or the solicitor. Before impaneling the jury or accepting the guilty plea of the defendant, the trial judge must receive an affirmative waiver by the defendant, if present, of his right to have the case tried in general sessions court. The defendant must be informed that, if tried in general sessions court, the case would be tried in front of twelve jurors who must reach a unanimous verdict before a finding of guilty of

the offense can be rendered in his case, and that if tried in magistrates or municipal court, the case would be tried in front of six jurors who must reach a unanimous verdict before a finding of guilty of the offense can be reached in his case. The defendant may waive any and all of the rights provided in this subsection, in writing, prior to the impaneling of the jury or the acceptance of the defendant's guilty plea.

(2) A case transferred to a magistrates or municipal court not disposed of in one hundred eighty days from the date of transfer automatically reverts to the docket of the general sessions court.

(C) All cases transferred to the magistrates or municipal court must be prosecuted by the solicitor's office. The chief magistrate of the county or the chief municipal judge of the municipality, upon petition of the solicitor, shall set the terms of court and order the magistrates and municipal judges to hold terms of court on specific times and dates for the disposition of these cases.

(D) Provision for an adequate record must be made by the solicitor's office.

(E) Notwithstanding another provision of law, all fines and assessments imposed by a magistrate or municipal judge presiding pursuant to this section must be distributed as if the fine and assessment were imposed by a circuit court pursuant to Sections 14-1-205 and 14-1-206. This section must not result in increased compensation to a magistrate presiding over a trial or hearing pursuant to this section or in other additional or increased costs to the county.

HISTORY: 1992 Act No. 310, Section 1; 1993 Act No. 174, Section 1; 1994 Act No. 497, Part II, Section 36K; 1994 Act No. 499, Sections 1, 2; 1995 Act No. 7, Part I, Sections 16, 21; 2000 Act No. 376, Section 2; 2004 Act No. 214, Section 1; 2012 Act No. 169, Section 1, eff May 14, 2012.

**SECTION 22-3-546.** Establishment of program for prosecution of first offense misdemeanor criminal domestic violence offenses.

A circuit solicitor, in a circuit with five or more counties, may establish a program under his discretion and control, to prosecute first offense misdemeanor criminal domestic violence offenses, as defined in Section 16-25-20, in general sessions court. Whether to establish a program, and which cases may be prosecuted in general sessions court, are within the sole discretion of the solicitor. A solicitor shall report the results of the program to the Prosecution Coordination Commission.

HISTORY: 2006 Act No. 366, Section 2, eff June 9, 2006.

**SECTION 22-3-550.** Jurisdiction over minor offenses; restitution; contempt; maximum consecutive sentences.

(A) Magistrates have jurisdiction of all offenses which may be subject to the penalties of a fine or forfeiture not exceeding five hundred dollars, or imprisonment not exceeding thirty days, or both. In addition, a magistrate may order restitution in an amount not to exceed the civil jurisdictional amount provided in Section 22-3-10(2). In determining the amount of restitution, the judge shall determine and itemize the actual amount of damage or loss in the order. In addition, the judge may set an appropriate payment schedule.

A magistrate may hold a party in contempt for failure to pay the restitution ordered if the judge finds the party has the ability to pay. In addition, a magistrate may convert any unpaid restitution, fines, costs, fees, surcharges, and assessments to a civil judgment as provided in Section 17-25-323(C).

(B) However, a magistrate does not have the power to sentence a person to consecutive terms of imprisonment totaling more than ninety days except for convictions resulting from violations of Chapter 11, Title 34, pertaining to fraudulent checks, or violations of Section 16-13-110(B)(1), relating to shoplifting. Further, a magistrate must specify an amount of restitution in damages at the time of sentencing as an alternative to any imprisonment of more than ninety days which is lawfully imposed. The provisions of this subsection do not affect the transfer of criminal matters from the general sessions court made pursuant to Section 22-3-545.

HISTORY: 1962 Code Section 43-63; 1952 Code Section 43-63; 1942 Code Section 923; 1932 Code Section 923; Cr. P. '22 Section 19; Cr. C. '12 Section 20; Cr. C. '02 Section 12; G. S. 823; R. S. 11; 1870 (14) 402; 1977 Act No. 113, Section 1; 1993 Act No. 171, Section 14; 1993 Act No. 184, Section 261; 1994 Act No. 497, Part II, Section 28; 1995 Act No. 83, Section 21; 1995 Act No. 138, Section 1; 1999 Act No. 78, Section 2; 2010 Act No. 273, Section 24, eff June 2, 2010; 2013 Act No. 82, Section 6, eff June 13, 2013.

**SECTION 22-3-560.** Breaches of the peace.

Magistrates may punish by fine not exceeding five hundred dollars or imprisonment for a term not exceeding thirty days, or both, all breaches of the peace.

HISTORY: 1962 Code Section 43-64; 1952 Code Section 43-64; 1942 Code Section 924; 1932 Code Section 924; Cr. P. '22 Section 20; Cr. C. '12 Section 21; Cr. C. '02 Section 13; G. S. 824; R. S. 12; 1870 (14) 402; Const. Art. 5, Section 21; 1981 Act No. 76, Section 8; 1997 Act No. 80, Section 4; 2008 Act No. 346, Section 1, eff June 25, 2008; 2010 Act No. 273, Section 8, eff June 2, 2010.

**SECTION 22-3-570.** Larceny by stealing property not exceeding certain value.

Magistrates have jurisdiction of petit larceny and all other larcenies involving personal property including, but not limited to:

- (1) money;
- (2) goods or chattels;
- (3) bank note, bond, promissory note, bill of exchange, or other bill;
- (4) order or certificate;
- (5) book of accounts;
- (6) deed or writing containing a conveyance of land;
- (7) other valuable contract in force;
- (8) receipt;
- (9) release or defeasance; or
- (10) any writ, process, or public record.

The value of the property stolen must be one thousand dollars or less.

HISTORY: 1962 Code Section 43-65; 1952 Code Section 43-65; 1942 Code Section 926; 1932 Code Section 926; Cr. P. '22 Section 22; Cr. C. '12 Section 24; Cr. C. '02 Section 16; G. S. 826; R. S. 15; 1870 (14) 403; 1993 Act No. 171, Section 15; 1993 Act No. 184, Section 262.

**SECTION 22-3-580.** Receiving stolen goods.

**§ 47-3-20. Local animal care and control ordinances authorized.**

The governing body of each county or municipality in this State may enact ordinances and promulgate regulations for the care and control of dogs, cats, and other animals and to prescribe penalties for violations.

HISTORY: 1962 Code § 6-145; 1972 (57) 2733; 1975 (59) 235; Amended by 2000 Act No. 293, § 1, eff May 19, 2000.

**EFFECT OF AMENDMENT**

The 2000 amendment added "or municipality", "care and" and ", cats," and substituted "animals " for "domestic pets".

## Return to Civil Table of Contents

### B. Magistrate Law in Civil Actions

#### 1. Jurisdiction

In South Carolina, jurisdiction, or the basic authority of a judge to hear and exercise judgment of a matter, is based upon three considerations: territorial jurisdiction, subject matter jurisdiction, and the amount in controversy.

Territorial jurisdiction for each magistrate extends throughout the county in which he is appointed in both civil or criminal matters. Before the opinion of the S.C. Supreme Court in *Ex re Daniel R. McLeod v. Roger A. Crowe*, 272 S.C. 41, 249 S.E.2d 772 (1978), district jurisdiction between magistrates was allowed, but as of *McLeod v. Crowe*, *supra.*, all magistrates now constitutionally possess "uniform county wide jurisdiction."

To understand the latter two determinations of jurisdiction, subject matter jurisdiction and amount in controversy, one must look to S.C. Code Ann. §§ 22-3-10, and 22-3-20. Section 22-3-10, as limited by § 22-3-20, sets out magisterial jurisdiction over twelve areas of civil subject matter as follows:

1. Actions on contracts for the recovery of money, where the claim does not exceed \$7,500.00;
2. Actions for damages for injury to rights pertaining to the person, or personal or real property, where the damages do not exceed \$7,500.00;
3. Actions for a penalty, fine or forfeiture, not to exceed \$7,500.00;
4. Actions commenced by attachment of property, as provided by statute, where debt or damages do not exceed \$7,500.00;
5. Actions upon a bond conditioned for the payment of money, not exceeding \$7,500.00, whether the money is due in sum total or in installments;
6. Actions upon a surety bond taken by the magistrate, when penalty or amount claimed does not exceed \$7,500.00;
7. Actions upon a judgment rendered in magistrate's court when it is not prohibited by the South Carolina Rules of Civil Procedure;
8. Taking and entering judgment on the confession of a defendant in the manner prescribed by law when the amount confessed does not exceed \$7,500.00.
9. Actions for damages or for fraud in the sale, purchase, or exchange of personal property, not to exceed \$7,500.00;

10. All landlord and tenant matters, as well as those included in Chapter 33 through 41 of Title 27, encompassing matters of leasehold estates, rent, ejectment of tenants and undertenants of life tenants;

11. Actions to recover the possession of personal property, whose stated value does not exceed \$7,500.00;

12. In all actions provided for in this section when a filed counterclaim involves a sum not exceeding \$7,500.00.

13. In interpleader actions arising from real estate contracts for the recovery of earnest money, only if the sum claimed does not exceed \$7,500.00.

14. In actions for damages arising from a person's failure to return leased or rented personal property within 72 hours after the expiration of the lease or rental agreement, such damages to be based on the loss of revenue or replacement value of the property, whichever is less, if the damages claimed do not exceed \$7,500.00; however, the lease or rental agreement must set forth the manner in which the amount of the loss of revenue or replacement value of the item leased or rented is calculated.

It should additionally be noted that magistrates have limited jurisdiction over mechanics' liens (§ 29-5-130), agricultural liens (§§ 29-13-80 and 29-13-90), repair or storage liens (§ 29-15-10), and animal owner's liens (§ 29-15-50).

In most of the above matters, for the magistrate to have jurisdiction over the amount of the contract, bond or judgment, the extent of damages, or the value of the property or dispute must not exceed the \$7,500.00 limitation imposed by § 22-3-10. In cases involving liens, the magistrate's jurisdictional dollar amount may be further restricted by the lien statute itself. Section 22-3-20 further limits a magistrate's jurisdiction by prohibiting his hearing civil cases in which the State is a party, except actions for penalties not exceeding \$100, and for disputes as to title in real property matters except as provided in §§ 22-3-1110 - 22-3-1180. Jurisdiction may not be waived or conferred upon the magistrate by consent of the parties or by order of a higher court.

**Sec. 14-1. Creation.**

There is hereby established a municipal court for the town, which shall be part of the unified judicial system of the state pursuant to section 14-25-5 et seq. of the S.C. Code of Laws.

*(Ord. No. 83-16, § (2-100), 4-13-83)*

**Sec. 14-2. Judge; appointment; tenure; compensation.**

The court shall be presided over by a judge. The municipal judge shall be appointed by council for a term of two (2) years. The council shall appoint one (1) or more assistant judges to serve in the temporary absence or legal incapacity of the municipal court judge. The initial appointment shall be for a term to expire in May. Thereafter, appointments shall be for terms of two (2) years. The compensation of the judges shall be as from time to time determined by council. Vacancies shall be filled in accordance with section 14-25-25 of the S.C. Code of Laws.

*(Ord. No. 83-16, § (2-101), 4-13-83)*

**ARTICLE II. ANIMAL CONTROL ✓**

Sec. 3-51. Definitions.

Sec. 3-52. Licensing of dogs.

Sec. 3-53. Animals running at large.

Sec. 3-54. Impoundment of animals.

Sec. 3-55. Redemption of impounded animals.

Sec. 3-56. Adoption procedures.

Sec. 3-57. Cruelty to animals.

Sec. 3-58. Keeping of wild animals.

Sec. 3-59. Performing animal exhibitions.

Sec. 3-60. Enforcement.

Sec. 3-61. Rabies control.

Sec. 3-62. Penalties.

**Sec. 3-51. Definitions. ✓**

As used in this article, the following terms mean:

(1)

*Animal:* Any live, vertebrate creature, domestic or wild.

(2)

*Animal control officer:* Any person designated by the county administrator and/or commissioned to perform such duties under the laws of the state.

(3)

*At large:* Any dog shall be deemed at large when the dog is off the property of its owner and not under control of a competent person.

(4)

*Animal shelter:* Any facility so designated by the county council.

(5)

*Licensing authority:* Any participating veterinary hospital or animal shelter.

(6)

*Owner:* Any person, partnership or corporation owning, keeping or harboring one (1) or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three (3) consecutive days or more.

(7)

*Performing animal exhibition:* Any spectacle, display, act or event other than those events in which performing animals are used which have been approved by the county administrator.

(8)

*Pet:* Any animal kept for pleasure rather than utility.

(9)

*Public nuisance:* Any animal or animals which:

a.

Molest passersby or passing vehicles;

b.

Attack other animals;

c.

Trespass on school grounds;

d.

Are repeatedly at large;

e.

Damage private or public property; or

f.

Bark, whine or howl in an excessive, continuous or untimely fashion.

(10)

*Restraint:* Dog secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands; on or within a vehicle being driven or parked on any street or highway or within the real property limits of its owner.

(11)

*Veterinary hospital:* Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

(12)

*Vicious animal:* Any animal or animals that constitute a physical threat to human beings or other animals.

(13)

*Wild animal:* Any live monkey (subhuman primate), raccoon, skunk, fox, poisonous snake, leopard, panther, tiger, lion, lynx, or other warm-blooded animal which can normally be found in the wild state.

(Ord. No. 83-18, § (4-7), 6-8-83)

**Sec. 3-53. Animals running at large.**

(a)

*General prohibition.* It shall be unlawful for any owner or custodian of any dog, cat or other animal to permit same to run at large at any time upon any street or highway or other property within the county.

(b)

*Control of animals generally.* No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.

(c)

*Female dogs and cats.* Every female dog or cat in heat shall be confined in a building or secure enclosure in such manner that such female dog or cat cannot come into contact with another animal except for planned breeding.

(d)

*Vicious animals.* Every vicious animal, as determined by the animal control officer, magistrate or licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(e)

*Animals disturbing the peace.* No person owning or having custody of any dog, or any other animal, shall permit the same to unreasonably bark and/or to otherwise disturb the peace.

(f)

*Leashed animals and their feces removal.* No person owning or having custody of any dog, cat, or any other animal shall permit the animal to depart the owner's/custodian's premises without being leashed and physically controlled. That the owner/custodian of the animal will immediately remove feces deposited by the animal on any public property, public right of way or private property.

(Ord. No. 83-18, § (4-8), 6-8-83; Ord. No. 98-37, 12-2-98)

*State law reference— Dogs running at large, S.C. Code 1976, § 47-3-50(a).*

**Sec. 3-54. Impoundment of animals.**

(a)

*Seizure of animals running at large generally.* Any dog, vicious animal or cat running at large may be taken up by the animal control officer and transported to the county animal shelter and there confined in a humane manner for a period of not less than three (3) days and may thereafter be disposed of in a humane manner if not claimed by the owner.

(b)

*Optional seizure of dogs, notification to owners.*

(1)

When dogs are found running at large and their ownership is known to an animal control officer, such dogs need not be impounded, but the officer shall cite the owners of such dogs to appear before a magistrate of the County of Beaufort to answer to charges of violation of this article.

(2)

Upon the seizure of any dog found running at large with a county or municipality license tag, the Beaufort County Animal Shelter shall screen the county license records and attempt to notify the owner or custodian by written notice and/or telephone that the dog is being held by the shelter for disposition.

(c)

*Unclaimed animals; disposition.* Animals not claimed by their owners after notification or attempted notification or before the expiration of three (3) days shall become the property of the animal control shelter and may be euthanized or placed for adoption at the discretion of the animal control shelter.

(d)

*Records of impounded animals.* It shall be the duty of the director of the Beaufort County Animal Shelter or other persons designated by the Beaufort County Council to keep accurate and detailed records of seizures and dispositions of all animals coming into their custody and to file this report with the county administrator each month. Any reports prepared by a designee of the council shall also be filed with the director of the Beaufort County Animal Shelter.

(e)

*Abandoned animals.* Any animal determined to be abandoned by an animal control officer may be impounded by an animal shelter.

(f)

*Diseased animals.* Any diseased animal presented to a Beaufort County Animal Shelter whose condition endangers the health of other animals in the shelter or any severely injured animal may be euthanized immediately notwithstanding the three-day holding period as specified in paragraphs (a) and (c) of this section.

(g)

*Shelter space allocation.* At any time the number of animals presented to the Beaufort County Animal Shelter for holding exceeds the holding space available, the animal shelter director shall ration the available spaces among the municipal, county and military animal control officers and the general public.

***Equipment.*** All equipment used on a performing animal shall fit properly and be in good working condition.

(Ord. No. 83-18, § (4-14), 6-8-83)

**Sec. 3-60. Enforcement.**

(a)

***Entering owner's premises.*** For the purpose of discharging the duties of this article and to enforce its provisions, the duly appointed animal control officer of the county or any law enforcement officer is entitled to enter any premises upon which any dog is kept or harbored and demand the exhibition by the owner of the license for such dog.

(b)

***Inhumane treatment of animal, procedure for search warrant and seizure.*** When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes or has probable cause to believe that this article in relation to cruelty to animals has been violated in any particular building, premises, or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer to search the building or place, but no search shall be made after sundown unless specifically authorized by the magistrate upon satisfactory cause. The law enforcement officer may examine such animal and take possession of such animal when in his opinion it is receiving inhumane treatment. The animal shall be taken to the animal shelter and held for disposition.

(c)

***Interference with officer.*** No person shall interfere with, hinder or molest the duly authorized animal control officer of the county in the performance of his duty or any such agents or seek to release animals in the custody of the duly authorized animal control officer of the county or any agent of the county, except as provided in this article.

(Ord. No. 83-18, § (4-15), 6-8-83)

**Sec. 3-61. Rabies control.**

(a)

***State law adopted.*** The Code of Laws of South Carolina, section 45-5-10 et seq., and amendments thereto are adopted by this article.

(b)

***Duty to report animal bites.*** It shall be the duty of every physician, or other practitioner, to report to the county animal shelter or an authorized agent the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. It shall be the duty of the sheriff's

STATE OF SOUTH CAROLINA  
UNIFORM TRAFFIC TICKET

CITY OR COUNTY OF Port Royal VERSUS

FIRST NAME Marie MIDDLE NAME LAST NAME Baracco

STREET AND NO. CITY STATE ZIP CODE  
1006 Madrid Ave Port Royal, SC 29935

STATE LICENSED DRIVER'S LICENSE NO. CDL DRI. LIC. CLASS  
SC 011385879  YES  NO D

VEH. LIC. NO. STATE MAKE OF VEH YEAR COMM. VEH. AUTO 16 PSGR VEH. COMB.  
HAZ. MT. MOPED MTRCYCL. OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL COURT

NAME OF TRIAL COURT STREET AND NO.  
Grimsley 700 Paris Ave

DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE  
07 25 20 12 6:00 PM Port Royal SC 29935

VIOLATION - COURT APPEARANCE REQUIRED YES NO VIOLATION SECTION NO.  
Animals at Large  YES  NO 3-53

OWNER OF VEHICLE DATE OF ARREST  
07 04 20 12

ADDRESS OF OWNER DATE OF VIOLATION  
07 04 20 12

BAIL DEPOSITED NAME OF ARRESTING OFFICER RANK  
Five-year AFC

PRESENT THIS SUMMONS TO THE TRIAL COURT SHOWN ABOVE

Be sure you understand from the arresting officer the exact time and before whom you are to appear. IF THIS TICKET IS WRITTEN FOR A TRAFFIC VIOLATION AND YOU FORFEIT BAIL, PLEAD GUILTY OR NOLO CONTENDERE, OR ARE CONVICTED AFTER A TRIAL, THIS VIOLATION WILL BE PLACED AGAINST YOUR DRIVING RECORD, OR FORWARDED TO YOUR HOME STATE. FAILURE TO COMPLY WITH THE TERMS OF THIS SUMMONS MAY RESULT IN THE SUSPENSION OF YOUR DRIVERS LICENSE BY YOUR HOME STATE. YOU ARE REQUIRED BY LAW TO APPEAR IN COURT FOR CERTAIN OFFENSES.

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

COUNTY	<u>BFT</u>	NUMBER	<u>07</u>
BADGE	<u>316</u>	TROOP	<u>06</u>
D A Y	S M T W T F S		
	1 2 3 4 5 6 7		
TIME OF VIOLATION	<u>0930</u>	WEATHER	<u>Clear</u>
DISTANCE IN FEET FROM INTERSECTION OF			
AND			
MILES	N E S W		
	1 2 3 4		
HWY NO.		CITY	
Lat			
Long			
OFFENSE CODE	<u>94</u>	B.A. LEVEL	

DOCKET NO.

Clerk of Court: 843-986-2229

39533 FY

VIOLATOR'S COPY

Bond: \$1,092.50

8/8/12

department to forward a copy of each report involving the animal bite to the county health department within twenty-four (24) hours of receipt of such report.

(c)

*Unlicensed animals biting humans, seizure.* In the event a suspected stray unlicensed animal has bitten a person, the animal shall be seized and the county health department contacted for necessary forms for processing. The animal shall then be taken to a consenting veterinarian who will euthanize the animal and remove the head. Once the head is removed, the county health department shall pick up and ship the head to the state authorities for examination.

(d)

*Licensed animals biting humans, examination.* When a licensed animal bites a person, the owner shall be directed to take the animal to a licensed veterinarian for examination. The owner shall then cause the animal to be quarantined for ten (10) days. The quarantine may be at the owner's residence or veterinary clinic. Subsequent to the ten-day quarantine, the animal shall again be examined by a licensed veterinarian and the results of the examinations furnished by the owner to the county health department.

(e)

*Animals without rabies inoculation.*

(1)

Any animal not displaying the metal license tag issued at the time of rabies inoculation and which has been involved in a possible rabies exposure to a human may be seized and processed for determination of rabies contamination as prescribed by the health department of Beaufort County or the health department of the state.

(2)

Any animal which has not been inoculated against rabies in accordance with the provisions of subsection (e)(1) above shall be held not to be property in any of the courts of Beaufort County.

(Ord. No. 83-18, § (4-16), 6-8-83)

### **Sec. 3-62. Penalties.**

Any person interfering with the performance of duty of an animal control officer or the director of an animal shelter or violating any of the paragraphs as outlined in section 3-53 shall be deemed guilty of a misdemeanor and punished in the following manner:

(1)

*First offenders.* First offenders of the licensing clauses of this article will be subject to a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00).

(2)

***Second offenders.*** Second offenders will be subject to a fine not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) and/or thirty (30) days in jail.

(3)

***Separate offenses.*** Each day's violation of this article will constitute a separate offense.

*(Ord. No. 83-18, § (4-17), 6-8-83; Ord. No. 98-37, 12-2-98)*

SUPPLEMENTAL INCIDENT REPORT

ORIGINAL REPORT  
 MODIFIES ORIGINAL

SUPPLEMENTAL REPORT  
 CASE STATUS CHANGE

ADDITIONAL VICTIMS  
 ADDITIONAL OFFENDERS

ADDITIONAL STOLEN PROPERTY  
 ADDITIONAL RECOVERED PROPERTY

PAGE 2 OF 3 PAGES.

Officer's Actions:

I was contacted by Sgt Bush on 7-5-12 in reference to an animal incident that a Port Royal Officer responded to. I made contact with Cpl Williams (PRPD) and met him at the Police Dept to obtain a copy of the incident report. A copy of the incident report and the current rabies vaccination will be attached to this incident report. After reviewing the incident report and speaking with Cpl Williams I responded to Port Royal Vet Clinic where the victim canine "Zoey" was being housed. I met with Dr. Marikay Campbell and observed the canine at the clinic. Dr. Marikay Campbell provided a disc of photos taken of the canine's injuries during surgery. The canine appeared to be in stable condition at this time. She advised that both the victim and the suspect canine are clients at her clinic. She stated she has not had any previous issues with either canine. The photographs of the victim canine will be submitted into evidence as soon as possible.

I contacted SSgt Hiers and advised him of the situation. He advised to make contact with the suspect canine and assess the behavior of the animal. I responded to the incident location and met with the animal owner.

Interview with Suspect (Mare Baracco):

Upon arrival at the incident location I observed two canines inside the residence. I was greeted by the suspects husband and invited inside the residence. Both canines at this location appeared friendly as they greeted me at the front door. Baracco stated that she was very upset over the incident and she and her husband take full responsibility. She stated they would pay the vet bill and that the incident was an accident. Baracco showed me videos of other dog interaction involving Bodi. Baracco stated that Bodi is also trained by Kevin Mackail at her residence as well as other facilities. She stated both of her dogs attend Beaufort Dog or Camp Green dog for doggy day care and have not had any issues at either location. She explained that she has never had any issues with other dogs involving her two dogs. She stated her dogs are leashed and walked three times a day. In my presence, Baracco and I walked outside and she demonstrated her method in walking her canines and riding their bicycle in the evening. Baracco stated that she lets her canine outside in the small front yard to use the bathroom occasionally. Concluding my interview, I did not feel that this was a dangerous animal and I advised Baracco that I was impressed with her canines behavior. I advised Baracco that I would continue the investigation and return to her residence next week.

Officer's Actions:

I contacted Germer and advised her on the status of the investigation. Germer contacted me on 7-6-12 and advised that her dog "Zoey" passed away yesterday evening. I advised Germer that I was sorry for her loss and that the investigation would continue on monday. I contacted SSgt Hiers and advised him of the situation.

On 7-9-12 Cpl Reeves and I responded to the incident location and met with the animal owners. I issued a Dangerous Animal Notice (See Attachment) to Baracco and explained the requirements that needed to be met within 72 hours. Baracco appeared extremely defensive and immediately contacted BCSO to appeal the notice. Cpl Reeves contacted SSgt Hiers and advised him of the situation.

On 7-10-12 I responded to the victim's residence and met with Sally Germer and her husband Buddy Brown. I informed them on the status of the investigation. Germer expressed her concern with the other neighbors in the area being "afraid" of Bodie. I provided statement forms and advised her to have her neighbors write a statement in reference to concerns they have regarding the dog.

SUBJECT IDENTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		SUBJECT LOCATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> ACTIVE	<input type="checkbox"/> ADM. CLOSED	<input type="checkbox"/> ARRESTED UNDER 18	<input type="checkbox"/> EX-CLEAR UNDER 18
				<input type="checkbox"/> UNFOUNDED		<input type="checkbox"/> ARRESTED 18 AND OVER	<input type="checkbox"/> EX-CLEAR 18 AND OVER
REASON FOR EXCEPTIONAL CLEARANCE 1 <input type="checkbox"/> OFFENDER DEATH 2 <input type="checkbox"/> NO PROSECUTION 3 <input type="checkbox"/> EXTRADITION DENIED 4 <input type="checkbox"/> VICTIM DECLINES COOPERATION 5 <input type="checkbox"/> JUVENILE - NO CUSTODY							
REPORTING OFFICER(S)	DATE	UNIT NUMBER	APPROVING OFFICER		DATE	UNIT NUMBER	
LCpl B. Chaplin	7-10-12	C3538					
Follow-up Investigation <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> OFFICER							

*This is an Official Notice*

Section 14-35 of the Beaufort County Ordinance States:

*"Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals.*

The animal described below has hereby been declared dangerous. You are required by law to comply with the following requirements within seventy-two (72) hours of:

Date / Time: July 9, 2012 / 2:30 PM  
Species: Canine Breed: Rhodesian Ridge Back mix  
Name: Bodi Age: 3yrs Gender: M  
Description: Red w/ white chest  
Owner / Address / Location of Animal: Mare Baracco  
1006 Madrid Avenue, Port Royal SC 29935

Requirements:

(1) The dangerous animal shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel appropriate to the size of the animal. All pens or structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure floor (such as concrete) attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal. The pen or run area must be clearly marked as containing a dangerous animal and must be designed to prevent the entry of the general public, including children, and to prevent the escape or release of the animal.

(2) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition.

(3) The dangerous animal must not go outside its kennel or pen unless the animal is securely leashed and muzzled with a leash no longer than six feet in length and under the actual physical control of a person 18 years of age or older. Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(4) The person owning, keeping, sheltering or harboring the animal must register the animal with the Beaufort County Animal Shelter within the required seventy-two hour timeframe and provide proof of liability insurance of at least fifty thousand dollars insuring or securing the owner for personal injuries inflicted by the dangerous animal. The Beaufort County Animal Shelter will issue Dangerous Animal tags which must be displayed on the animal's collar at all times. The dangerous animal must also display its current rabies tag on its collar at all times. The person owning, keeping, sheltering or harboring the dangerous animal shall have an identification microchip implant placed under the animal's skin by a licensed veterinarian within the required seventy-two hour timeframe.

Signing under duress; app

Receipt left with: [Signature] Date 7/9/12

Deputy: Lept B. Chaplin Date 7-9-12

Penalties:

Failure to comply with these requirements within seventy-two (72) hours of the date and time listed on this notice will result in the responsible party being fined in the amount up to \$1092.50. The dangerous animal will be removed from the premises and secured at the Beaufort County Animal Shelter in accordance with Section 14-35 of the Beaufort County Ordinance pending the decision of the Court.

Reasons for declaration of dangerousness: Reference case # 12-01444 (PRPD) and 20120709-508 (BCSO) involving an animal attack which the victim's K9 died.

## ARTICLE II. - ANIMAL CONTROL

### FOOTNOTE(S):

--- (2) ---

**Editor's note**— Ord. No. 2010/7 (), adopted Apr. 26, 2010, amended art. II in its entirety to read as herein set out. Former art. II pertained to the same subject matter, consisted of §§ 14-26—14-37, and derived from the 1982 Code; Ord. No. 2008/10, adopted Apr. 14, 2008 (); and Ord. No. 2009/13 (), adopted Mar. 20, 2009.

### Sec. 14.26 - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal means any domestic live, vertebrate creature.

Animal control director means any person so appointed by the county administrator.

Animal control officer means any person designated by the county administrator and/or commissioned to perform such duties under the laws of the county and the state.

Animal shelter means any facility so designated by the county council.

Confined means kept in an enclosure designed to restrain an animal from leaving the owner's premises; a fully fenced pen or kennel.

Dangerous animal means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; an animal which makes an unprovoked attack that causes bodily injury to a human being and the attack takes place other than the place where the animal is confined; or an animal that commits unprovoked attacks any place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being. A dog will be considered a dangerous animal if it is used as a weapon in the commission of a crime.

Owner means any person owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more (S.C. Code 1976, § 47-5-20).

Pet means any animal kept for pleasure rather than utility.

Public nuisance means any animal which:

- (1) Molests passersby or passing vehicles;
- (2) Attacks other animals;
- (3) Trespasses on school grounds;

- (4) Is repeatedly at large;
- (5) Damages private or public property;
- (6) Barks, whines, howls, screeches or crows in an excessive, continuous or untimely fashion; or
- (7) Causes harm to the public's health, safety or well being.

Restraint means an animal secured by a leash or lead, under the control of a responsible person within the boundaries of the owner's property or any public property.

Running at large means a pet or domestic animal which is off the property or premises of the owner and which is not under the physical control of owner by means of a leash or confinement.

Veterinary hospital means any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseases and injuries of animals.

Wild animal means any warm-blooded animal such as a monkey (subhuman primate), raccoon, opossum, squirrel, rat, leopard, panther, tiger, lion, lynx, or other warm-blooded animal which can normally be found in the wild state.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Cross reference**— Definitions generally, § 1-2.

**Sec. 14-27. - Sterilization and microchip identification.**

- (a) Sterilization. No impounded pet may be redeemed without (a) first having been surgically sterilized and a fee paid therefore, which fee shall not exceed the fee charged by the shelter for the sterilization of animals prior to adoption, or (b) paying an intact animal fine of \$200.00 to redeem the pet intact. If an intact pet comes to be impounded for a second or subsequent time in a calendar year, the intact animal fine shall be \$1,000.00.

Sterilization under this section may not take place sooner than after the fifth working day following the pet's placement in the custody of the shelter, or when the owner appears at the shelter to redeem the animal, whichever is sooner.

The shelter must give written notice of the policies and options regarding redemption and sterilization set forth herein to owners seeking to redeem their pets.

- (b) Microchip identification and fee. When a dog or cat is adopted from the county animal shelter, the animal shelter may implant a microchip in the dog or cat identifying the owner and all other information as provided by law. The county animal shelter shall charge a fee for implantation of a microchip in an amount recommended by the county administrator.
- (c) Fee for redemption of a microchipped animal. A microchipped animal returned to the county animal shelter may be reclaimed by the owner upon the owner's payment to the county animal shelter of a redemption fee. A redemption fee shall be in the amount recommended by the county administrator.
- (d) Fee for redemption and microchipping of an unmicrochipped animal. All reclaimed animals are required to be microchipped prior to release to their owners along with payment of a redemption fee. Both the fee for implantation of a microchip and the redemption fee shall be in the amount recommended by the county administrator.

(Ord. No. 2010/7, 4-26-2010; () Ord. No. 2010/27, 11-8-2010 ( ) )

**Sec. 14-28. - Restraint of animals by owners.**

- (a) Running at large. It shall be unlawful for any owner or custodian of any dog, cat, or other animal to permit the dog, cat, or other animal to run at large at any time upon any street or highway or other property within the county (S.C. Code 1976, § 47-7-110).
- (b) Control of animals generally. No owner shall fail to exercise proper care and control of his animals to prevent them from becoming a public nuisance.
- (c) Female dogs and cats in heat. Every female dog and cat in heat shall be confined in such a manner that such female dog or cat cannot come into contact with another animal.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Sec. 14-29. - Impoundment.**

- (a) Seizure of animals running at large generally. Any dog, cat, dangerous animal, or other animal running at large may be seized by an animal control officer and transported to the county animal shelter and there confined in a humane manner for a period of not less than five working days and may thereafter be disposed of in a humane manner if not claimed by the owner. However, if the animal is terminally ill, critically injured or a threat to the shelter staff and/or other animals being housed at the shelter, the county veterinarian or director may waive the five-day hold period and the animal may be immediately disposed of in a humane manner.
- (b) Disposition of animals at large. When an animal is found running at large and its ownership is known to an animal control officer, such animal need not be impounded but can be returned to the owner, and the officer may cite the owner of such animal to appear before a county magistrate to answer to charges of violation of this article. Upon the seizure of any animal found running at large with a rabies tag, the county animal shelter and control will screen the rabies records and attempt to notify the owner or custodian by written notice and/or telephone that the animal is being held by a shelter for disposition (S.C. Code 1976, § 47-3-540). All animals will be scanned for microchip identification.
- (c) Disposition of unclaimed animals. Animals not claimed by their owners after notification or attempted notification or before the expiration of five working days, shall become the property of the county animal shelter and control and may be placed for adoption or euthanized at the discretion of the director of the county animal shelter and control.
- (d) Records of impounded animals. It shall be the duty of the director of the county animal shelter and control or other persons designated by the county council to keep accurate and detailed records of seizures and dispositions of all animals coming into their custody and to file this report with the county administrator or his designee each month. Any reports prepared by a designee shall also be filed with the director of the county animal shelter and control.
- (e) Abandoned animals. When determined that an animal has been left unattended for a period of 24 hours or longer, it will be considered abandoned. The animal control officers may enter the property for the purpose of removing the animal. The animal will then be taken to the animal shelter and confined there for a period of five working days. It is unlawful to abandon an animal.
- (f) Diseased animals. Any diseased animal presented to a county animal shelter and control whose condition endangers the health of other animals in the shelter or any severely injured animal may

be euthanized immediately, notwithstanding the five working day holding period, as specified in subsections (a) and (c) of this section.

- (g) Shelter space allocations. At any time the number of animals presented to the county animal shelter and control for holding exceeds the holding space available, the animal shelter director shall ration the available spaces among the municipal, county and military animal control officers and the general public. If all local rescuers are full and the number of animals exceeds the holding space available, the director can network with other organizations from within and outside Beaufort County for their care and placement.

(Ord. No. 2010/7, 4-26-2010 ( ) ; Ord. No. 2010/27, 11-8-2010 ( ) )

**Sec. 14-30. - Redemption of impounded animals.**

- (a) Procedure. The owner shall be entitled to resume possession of any impounded animal upon proof of ownership and payment of impoundment fees and fines as set forth in this section.
- (b) Failure to redeem within holding period. The owner of an animal impounded and not redeemed within the required holding period shall be responsible for any costs incidental to impoundment in the amount set forth in this section.
- (c) Payment of fees. Any impounded animal may be redeemed as provided in this section upon payment of the fees by the owner to the county animal shelter and control.
- (d) Redemption fees. The redemption fee shall be \$50.00 for the first 24 hours of confinement for the first impoundment; the redemption fee for the second impoundment will be \$125.00 and the redemption fee for the third impoundment and each subsequent offense will be \$250.00.
- (e) Boarding fee. A boarding fee not to exceed \$25.00 a day will be imposed following the first 24 hours.
- (f) Posting of fees. All fees shall be published and posted in a prominent place within the county animal shelter and control.
- (g) Proof of rabies [vaccination]. In order to redeem an impounded animal from the county animal shelter and control, a current and valid rabies certificate must be presented at the time of redemption or obtained from a licensed veterinarian within three business days and provided to the county animal shelter. Proof of the rabies vaccination certificate must be presented or obtained at the time of the redemption. If a rabies certificate is not presented within three business days, an animal control officer will issue the owner a ticket, which will be processed through the Magistrate's Court in Beaufort County.

(Ord. No. 2010/7, 4-26-2010 ( ) ; Ord. No. 2010/27, 11-8-2010 ( ) )

**Sec. 14-31. - Adoption fees and sterilization.**

- (a) Adoption fee established. Animal adoption fees shall be established by the administrator and the director of the county animal shelter and control.
- (b) Sterilization. Animals adopted from the county animal shelter and control will be sterilized prior to going into the adopted home. Sterilization fees shall be collected by the county animal shelter and control at the time of adoption.
- (c)

Authority to refuse adoption. The county animal shelter and control director or designee shall have the authority to refuse adoption of an animal to any person deemed unable to provide proper shelter, confinement, medical care and food or to any person who has a past history of inhumane treatment of or neglect to animals. Any person seeking adoption of an animal more frequently than 90 days shall be subject to refusal of adoption. Any person who has been refused adoption of an animal may appeal his case to the deputy administrator for community services. If any person turns in an owned animal to the animal shelter and control, they will not be able to adopt an animal for ninety days. Persons turning in more than one owned animal within one year will no longer be allowed to adopt an animal from the shelter.

(Ord. No. 2010/7, 4-26-2010 ( ) ; Ord. No. 2010/27, 11-8-2010 ( ) )

### **Sec. 14-32. - Cruelty.**

- (a) Animals care generally. No owner shall fail to provide his animals with sufficient, good and wholesome food and water at all times; proper shelter and protection from the weather; a clean and sanitary environment; veterinary care when needed to prevent suffering; and humane care and treatment. Failure to comply with the animal control officer's instructions or directions will result in the animal control officer impounding the animals pending the ruling of the court.
- (b) Mistreatment. No person shall beat, cruelly ill-treat, torment, overload, overwork or otherwise abuse an animal or cause, instigate or permit any fight or other combat between animals or animals and humans.
- (c) Cropping or dubbing of ears, tails, comb, wattles, spurs or earlobes. No person shall crop or dub an animal's ears or tail or wattle or comb, except a licensed veterinarian who is qualified to perform such an operation.
- (d) Giving away for commercial purpose. No person shall give away any live animal, fish, reptile, or bird as a prize for or as an inducement to enter any contest, game, or other competition or as an inducement to enter a place of amusement or offer such vertebrate as an incentive to enter into any business agreement whereby the offer was for the purpose of attracting trade.
- (e) Striking with motor vehicle. Any person, as the operator of a vehicle, who strikes a dog or cat should, if reasonably possible, report the accident to the owner, and should call 911 and ask that the animal control division be notified of the time and place of the accident.
- (f) Poisoning. No person shall expose any known poisonous substance, whether mixed with food or not, in such a manner as to endanger any domestic animal.
- (g) Leaving unattended. No person shall leave an animal unattended for more than 24 hours. This shall constitute abandonment. After a 24-hour period, if no contact has been made with an owner, the animal control officer will pick up the animal and transport it to the animal shelter.
- (h) Locking in vehicle. It shall be illegal for any person to leave an animal unattended in a vehicle. The animal control officer assisted by another law enforcement officer will remove the animal when the officer's opinions are that the animal is in distress.
- (i) Denial of shelter. No person shall fail to provide shelter or deny shelter for any animal, fish, bird, fowl or reptile of any kind in any manner without shading same from the sun, any direct light, heat or cold and providing adequate ventilation for their use.

- (j) Denial of treatment. No person shall fail to provide humane treatment or deny humane treatment for any diseased, sick or injured animal.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Sec. 14-33. - Rabies control.**

- (a) State law adopted. The provisions of S.C. Code 1976, § 47-5-10 et seq. are adopted by this article.
- (b) Duty to report animal bites. It shall be the duty of every physician or other practitioner to report to the county public health department or an authorized agent the names and addresses of persons treated for bites inflicted by animals, together with such information as will be helpful in rabies control. Any person bitten by an animal must report the bite to the county health department within 24 hours of the incident.
- (c) Sheriff's office to report animal bites. It shall be the duty of the sheriff's department to forward a copy of each report involving an animal bite to the county health department within 24 hours of receipt of such report.
- (d) Uninoculated animals biting humans. If an uninoculated animal has bitten a person, the animal will be seized and the county health department contacted for necessary forms for processing. After authority is given by DEHEC following a waiting period, the animal will be euthanized at the county animal shelter and taken to a consenting veterinarian, who will remove the head. Once the head is removed, the county health department will pick up and ship the head to the authorities for examination.
- (e) Inoculated animals biting humans. When an animal that has been inoculated against rabies is involved in an incident where a person is bitten, the owner of the animal must take the animal to a licensed veterinarian for examination. The owner must also notify the county health department within 24 hours of the incident. The county health department will direct the owner to quarantine the animal for ten days at the owner's residence or at a veterinary clinic as the department may determine. Subsequent to the ten days' quarantine, the animal will again be examined by a licensed veterinarian and the results of the examination furnished by the owner to the county health department. If a bite is considered severe by the medical director, the director may process such animal for a determination of rabies contamination as he determines necessary, whether or not the animal has been vaccinated.
- (f) Uninoculated animal not considered property. Animals that have not been inoculated against rabies shall not be held to be property in any of the courts of the county.
- (g) Inoculation of dogs and cats required. All dogs and cats three months of age or more are required to be inoculated against rabies. A rabies tag issued at the time of rabies inoculation shall be attached to a collar or harness and worn by the animal at all times.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Sec. 14-34. - Management of feral cat colonies.**

- (a) Definitions.

Animal means any live, vertebrate creature, domestic or wild.

Caregiver means any person who provides food, water or shelter to or otherwise cares for a feral cat colony.

Caregiver manager means any person in charge of a caregiver program.

Eartipping means straight-line cutting of the tip of the left ear of a cat while the cat is anesthetized.

Feral cat means a cat which currently exists in a wild or untamed state.

Feral cat colony means a group of cats that congregates. Although not every cat in a colony may be feral, any non-feral cats that routinely congregate with a colony shall be deemed to be a part of it.

Nuisance means disturbing the peace by (a) habitually or continually howling, crying or screaming, or (b) the habitual and significant destruction of property against the wishes of the owner of the property.

Suitable shelter means shelter that provides protection from rain, sun and other elements and is adequate to protect the health of the cat.

TNR means trap, neuter and return.

TNA program means a program pursuant to which cats are trapped, neutered or spayed, vaccinated against rabies, eartipped or tattooed and returned to the current location of the managed colony.

(b) Feral cat colonies.

(1) Feral cat colonies shall be permitted and caregivers shall be entitled to maintain them in accordance with the terms and conditions of this section.

(2) Caregiver requirements. It shall be the duty of the caregiver to:

- a. Report bi-annually to the county animal control on the following:
  1. Number of colonies in the county if the caretaker maintains more than one colony.
  2. Providing the county animal control with descriptions of each cat in the colony and copies of documents evidencing that the cats have been vaccinated and spayed/neutered.
- b. Help to resolve any complaints over the conduct of a colony or a cat within a colony.
- c. Maintain records on the size and location of the colonies as well as the vaccination and spay/neuter records of cats in the colonies.
- d. Mandatory vaccination of the colony population for rabies and making reasonable efforts to update the five-way or equivalent vaccinations on cats that can be recaptured.
- e. Mandatory spaying/neutering of all cats within the colony by a licensed veterinarian. In facilitating the spaying/neutering of cats, caregivers shall be presumed to have acted in good faith in concluding that cats routinely congregating within the colony are feral.
- f. Providing food, water and suitable shelter for colony cats.
- g. Observe the colony cats daily and keeping a record of any illnesses or unusual behavior noticed in any colony cats.
- h. Obtaining proper medical attention to any colony cat who appears to require it.
- i. Obtaining written approval of the owner of any property, on which the colony resides, or to which the caregiver requires access, to provide colony care.

- j. In the event that kittens are born to a colony cat, the caregiver shall remove the kittens from the colony after they have been weaned and be responsible for the placement of the kittens in homes or foster homes for the purpose of subsequent permanent placement.
  - k. Caregivers shall make reasonable efforts to find permanent inside homes for colony cats who exhibit the potential for acclimating to such a placement.
  - l. Caregiver shall make reasonable effort to maintain the colony as to prevent the colony from running at large beyond the confines of the designated area. (S.C. Code 1976 § 47-7-110)
- (c) Ordinance enforcement. Nothing shall interfere with the animal control officer's ability to:
- (1) Seize/remove a cat from a colony that is creating a nuisance as defined above if the caregiver has failed to cure the nuisance within a reasonable timeframe.
  - (2) Seize/remove a feral cat colony when the caregiver fails to comply with the requirements of this section.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Sec. 14-35. - Regulation of dangerous animals.**

- (a) Definition. "Dangerous animal" means any animal which the owner knows or reasonably should know has a propensity, tendency or disposition to attack unprovoked, cause injury, or otherwise endanger the safety of human beings or domestic animals; an animal which makes an unprovoked attack that causes bodily injury to a human being and the attack takes place other than the place where the animal is confined; or an animal that commits unprovoked attacks any place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being. A dog will be considered a dangerous animal if it is used as a weapon in the commission of a crime.
- (b) Confinement. Every dangerous animal, as determined by the animal control officer, magistrate or licensing authority, shall be confined by the owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner (S.C. Code 1976, § 47-3-720).
- (1) All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides.
  - (2) All pens or other structures designed, constructed or used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined animal.
  - (3) All structures erected to house dangerous animals must be adequately lighted and ventilated and kept in a clean and sanitary condition. No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition.
  - (4)

- . No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the animal and the leash are under the actual physical control of a person 18 years of age or older.
  - (5) Such animals may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.
- (c) Declaring an animal dangerous.
- (1) An animal control officer, in his or her discretion, observes that a particular animal is a dangerous animal as defined in this article, may declare such animal a dangerous animal by delivering a written notice of declaration to the owner. The notice shall include a description of the animal and the basis for the declaration of dangerousness. The notice shall be served upon any adult residing at the premises where the animal is located or may be posted on the premises if no adult is present.
  - (2) The person owning, keeping, sheltering or harboring the animal in question must comply with the requirements as designated in this section within 72 hours of the receipt of the animal control officer's declaration.
  - (3) Any animal that is alleged to be dangerous and that is under impoundment or quarantine at the animal shelter shall not be released to the owner, until such time that the owner is capable of confining the animal to his/her property in accordance with this section.
  - (4) All dangerous animals shall have an identification microchip implant placed under the animal's skin once the animal has been declared dangerous. The owner shall pay the actual fee charged by the shelter or the licensed veterinarian who performed the microchip identification procedure.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Sec. 14-36. - Enforcement.**

- (a) Duties. The division of animal control shall be charged with the responsibility of:
- (1) Cooperating with the health officers of various state government units and assisting in the enforcement of laws of the state with regard to the control of animals, and especially with regard to the vaccination of dogs and cats against rabies.
  - (2) Investigating all complaints with regard to animals covered by this article.
  - (3) Enforcing within the unincorporated areas of the county and municipalities, all of the state laws, ordinances enacted by the county and contracts entered into the county for the care, control and custody of animals covered by this article.
- (b) Entering the premises. The animal control officer shall patrol the properties of the county, public and private, for the purpose of checking animals for the following:
- (1) Rabies.
  - (2) Inhumane treatment and the health of animals.

(3) Boarding.

- (c) Interference with officers. No person shall interfere with or hinder an animal control officer or any such agent of the county in the performance of such officer's duty or seek to release animals in the custody of the animal control officer or any such agent of the county.
- (d) Penalties. Any person who violates the provisions of this article shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine up to \$500.00 or 30 days in jail. Each day's violation of any provision of this article shall constitute a separate offense.

(Ord. No. 2010/7, 4-26-2010 ( ) )

**Cross reference**— Health and sanitation, ch. 46.

Prime Insurance Company  
8722 South Harrison St. • Sandy, UT 84070

Declarations

This Declarations Page is issued in conjunction with and forms a part of Policy Number: XC12070018  
Customer No.: 18192

Item 1. Name of Insured: Mare, Baracco Deckard

Mailing Address:  
1006 Madrid Ave  
Port Royal, SC 29935

Item 2. Policy Period: From 07/09/2012 02:04 pm MST to 07/09/2013 02:04 pm MST  
Retroactive Date: 07/09/2012 02:04 pm MST

Item 3. Description of coverage afforded hereunder: Animal Liability

Item 4. Limits of Liability:

Per Accident: \$25,000.00  
Liability SIR: \$5,000.00  
Policy Aggregate: \$50,000.00

Limitations: The Policy provides coverage for only those activities and operations otherwise covered under the Policy as listed below and for which a specific coverage charge has been paid.

Classification and Description of Insured Hazards:

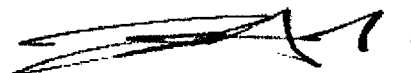
- Bodi; Type: Other: rhodesian red back; Registration #: 0; Bites: Child-0/Adult-0

Item 5. Premium:	\$530.40
Inspection/Policy Fees:	\$15.00
Tax:	\$21.82
SLSC:	\$10.91
<u>TOTAL</u>	<u>\$578.13</u>

Item 6. 100% Premium Earned at Inception.

Item 7. Endorsements and forms attached to this Policy: PAP-99-06, PAL-00-01

Item 8. Producer: Evolution Insurance Brokers, LLC



Authorized Representative

THIS INSURANCE CONTRACT IS REGISTERED AND DELIVERED AS A SURPLUS LINES POLICY UNDER THE SURPLUS LINE LAWS IN THE STATE WHERE THE NAMED INSURED IS LOCATED. THE INSURANCE IS NOT ISSUED BY AN INSURANCE COMPANY REGULATED BY THE STATE WHERE THE INSURANCE IS ISSUED AND IS NOT PROTECTED BY ANY STATE INSURANCE GUARANTEE FUND.



## Prime Insurance Company Declarations

Page 1 of 2

**THIS CLAIMS MADE INSURANCE POLICY (the "Policy") is a manuscript policy, meaning it is a negotiated agreement between the Insured and the Insurer, and as such it may differ significantly from policies offered by other insurance companies. As a claims made insurance policy, this Policy contains very strict claim reporting requirements which must be followed as conditions precedent to coverage. The terms of this Policy are contractual and are not merely recitals and all discovery form(s), warranty form(s), and other forms completed by the Insured to obtain coverage form a part of this Policy and constitute warranties of the Insured to the Insurer.**

**Policy Number:** SC1310555

**Customer Number:** E12-707275

**Policy Period:** From Effective Date: 10/16/2013 To Expiration Date: 10/16/2014  
(All dates (12:01 a.m.) of the physical address of the Insured.)

**Retroactive Date:** 10/16/2013

**Name and Physical Address of the Insured:**

Mare, Baracco Deckard  
1006 Madrid Ave  
Port Royal, SC 29935

**Mailing Address:**

Same

**Policy Premium:**

Premium:	\$530.00
Insurer Inspection/Policy Fee:	\$25.00
Surplus Lines Broker Fee	\$0.00
State Tax:	\$33.30
SLSC:	\$0.00
<b>Total:</b>	<b>\$588.30</b>

**40 % Premium Earned at Inception**

**Description of coverage afforded hereunder:** Animal Liability Insurance

**Endorsements and forms afforded to this policy:** PAP-99-06, PAL-00-01, PAP-99-03, PAP-99-07 PAP-99-35

**Producer:** Evolution Insurance Brokers, LC  
8722 South Harrison St.  
Sandy, UT 84070

**Issuing Office:** Prime Insurance Company  
8722 South Harrison St.  
Sandy, UT 84070

**Address Notice of Claims to:** Claims Direct Access (CDA)  
8722 South Harrison St.  
Sandy, UT 84070



# Prime Insurance Company Declarations

Page 2 of 2

**Commercial Liability:**

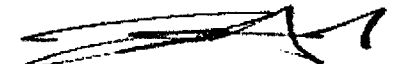
\$25,000 Per Accident \$5,000 Bodily Injury Liability SIR  
 \$50,000 Policy Aggregate \$5,000 Property Damage Liability SIR

<b>Form Type:</b> <input checked="" type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	<b>Completed Operations:</b> <input type="checkbox"/> Include <input checked="" type="checkbox"/> Exclude	<b>Products:</b> <input type="checkbox"/> Include <input checked="" type="checkbox"/> Exclude
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**Limitations: The Policy provides coverage for only those activities and operations otherwise covered under the Policy as listed below and for which a specific coverage charge has been paid.**

Classification and Description of activities and operations	Code No.	Basis of Coverage Charge
Animal Liability - Bodi - Rhodesian Red Back	999	Number of Units

<u>Loc.No.</u>	<u>Address</u>
1	1006 Madrid Ave Port Royal, SC 29935

<b>Insured Name:</b> Mare, Baracco Deckard	
<b>Issuing Date:</b> 10/16/2013	<b>Authorized Representative</b>

This insurance policy is being issued by an insurer that may not be licensed by the state insurance department in this state and may not be subject to this state's supervision and may not be protected in the event of the insolvency of the insurer by this state's guaranty or security fund. This policy issued may not be subject to any or all of the regulations of this state's insurance department pertaining to policy form.

  
 Rick J. Lindsey# 408215

**THIS INSURANCE CONTRACT IS REGISTERED AND DELIVERED AS A SURPLUS LINES POLICY UNDER THE SURPLUS LINE LAWS IN THE STATE WHERE THE NAMED INSURED IS LOCATED. THE INSURANCE IS NOT ISSUED BY AN INSURANCE COMPANY REGULATED BY THE STATE WHERE THE INSURANCE IS ISSUED AND IS NOT PROTECTED BY ANY STATE INSURANCE GUARANTEE FUND.**

**STATE OF SOUTH CAROLINA**     )  
   )  
**COUNTY OF BEAUFORT**             )     **LAW ENFORCEMENT  
   )     MUTUAL AID AGREEMENT  
   )     TOWN OF PORT ROYAL/BEAUFORT COUNTY**

This agreement, made between the **Town of Port Royal, through the Port Royal Police Department and Beaufort County, through the Beaufort County Sheriff's Office** provides as follows:

**SECTION 1: Purpose of Agreement**

Whereas, it is to the mutual advantage and benefit of the **Town of Port Royal and Beaufort County** that each agency agrees to render mutual aid law enforcement services as may be needed from time to time. It is further recognized that there may be situations where additional law enforcement officers and services are needed. These services may include, but are not limited to, patrol services, crowd control, traffic control and other emergency service situations. The use of law enforcement officers to perform law enforcement duties outside of the territorial limits of the jurisdiction where the law enforcement officers are legally employed may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public.

**SECTION 2: Authorization**

- a) Intergovernmental law enforcement services and assistance may be provided among jurisdictions during times of emergency and routine law enforcement work when mutual aid would best serve the interests of each jurisdiction and its residents in accordance with Sections 23-1-210 and 23-20-10 et seq. of the Code of Laws of South Carolina, 1976 as amended.
- b) It shall be the responsibility of each agency to provide the other with verification of the approval and authorization by their respective governing council to enter into agreement.

**SECTION 3: Power of Authority**

- a) The **Sheriff or Commanding Officer of the Beaufort County Sheriff's Office** shall determine the amount of personnel and equipment available to render mutual law enforcement aid to the **Town of Port Royal**. His/Her decision shall be final.
- b) The **Chief of Police or Commanding Officer of the Port Royal Police Department** shall determine the amount of personnel and equipment available to render mutual law enforcement aid to **Beaufort County**. His/Her decision shall be final.
- c) Law enforcement officers acting under this agreement shall be commanded by superior authority from within their own agency to maintain the peace or perform duties outside of their territorial limits. These law enforcement officers shall be under direction and authority of one person from their own agency/jurisdiction. That person shall in turn be under the direction and authority of the host jurisdiction to which they are called to perform law enforcement or peace duties. They shall have all powers and authority of law enforcement officers and peace officers as provided by law, including the power of arrest. All arrests and any enforcement actions and prosecutions shall remain

within the jurisdiction where such actions would be properly brought in the absence of this agreement.

**SECTION 4: Compensation**

- a) Cooperative law enforcement service shall be rendered without charge to reciprocal participating agencies for routine law enforcement activities.
- b) In the event of any extraordinary cost incurred in the rendering of aid under this agreement, a request may be submitted for compensation by the agency rendering aid.

**SECTION 5: Liability**

- a) Participating agencies shall not be liable or obligated to indemnify any other person or entity for any of its equipment damaged or destroyed and the individual officers shall not be indemnified for any material damage to his/her property, injury to his/her person or on account of his/her death resulting from the performance under this agreement.
- b) The party receiving aid under this agreement shall not be responsible for reimbursing any amounts paid or due as benefits to employees of a party giving aid under the terms of the South Carolina Workers' Compensation Act due to personal injury or death occurring while such employees are engaged in rendering aid under this Agreement. Both parties shall be responsible for payment of compensation and benefits only to their respective employees.
- c) All individuals retain all compensation, pension, retirement and disability rights while performing duties in accordance with this agreement, and all officers shall continue to be paid by the entity where they are permanently employed as of the dates services are rendered.
- d) This agreement shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action under this agreement for any cause whatsoever.
- e) To the extent permitted by law, and without waiving sovereign immunity, each agency shall be responsible for any and all claims, demands, suits, actions, damages and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel in providing aid or law enforcement services under this agreement.

**SECTION 6: Equipment and Facilities**

Each law enforcement agency may utilize equipment from their respective agency or other law enforcement agencies in carrying out their duties under this agreement. Each agency shall also maintain records concerning the performance of services provided by the agency

**SECTION 7: Effective Date of Agreement**

- a) This agreement shall be in effect and legally binding when signed by each agency executive.
  - b) This agreement shall be executed in multiple originals and each counterpart shall be given full force and effect.
-

**SECTION 8: Termination of Agreement**

This Agreement shall become effective and renew automatically one year from the date of last executive signature, unless fourteen (14) days notice of intent to terminate is provided by one of the parties.

Michael M. Hatfield  
Witness \_\_\_\_\_ Date 5/22/12

BEAUFORT COUNTY  
BY: \_\_\_\_\_  
ITS: Sheriff  
DATE: 5.22.12

[Signature]  
Witness \_\_\_\_\_ Date 06/09/12

TOWN OF PORT ROYAL  
BY: T. A. Beach  
ITS: Chief of Police  
DATE: 6-5-12

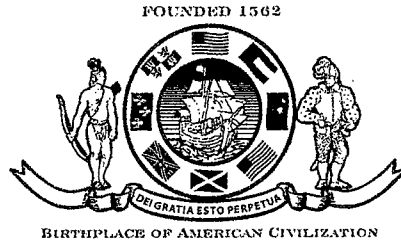
# Town of Port Royal, South Carolina

## Council

Samuel E. Murray  
Mayor

Vernon DeLoach  
Mayor Pro Tempore

Mary Beth Heyward  
Tom Klein  
Joe Lee



Van Willis  
Town Manager

James L. Cadien  
Chief of Police

Jeffrey S. Coppinger  
Daniel G. Lemieux  
Operations

Linda Bridges  
Planning

## RESOLUTION 6-2012

### A RESOLUTION APPROVING THE MUTUAL AID AGREEMENTS AND/OR INTER-JURISDICTIONAL AGREEMENTS ENTERED INTO BY THE TOWN OF PORT ROYAL POLICE DEPARTMENT

**WHEREAS**, it is to the mutual advantage and benefit of the Town of Port Royal and each agency identified in the attached listing to render mutual aid law enforcement services as may be needed from time to time. It is further recognized that there may be situations where additional law enforcement officers and services are needed. These services may include, but are not limited to, patrol services, crowd control, traffic control and other emergency service situations. The use of law enforcement officers to perform law enforcement duties outside of the territorial limits of the jurisdiction where the law enforcement officers are legally employed may be desirable and necessary in order to preserve and protect the health, safety, and welfare of the public.

**WHEREAS**, Intergovernmental law enforcement services and assistance may be provided among jurisdictions during times of emergency and routine law enforcement work when mutual aid would best serve the interests of each jurisdiction and its residents in accordance with Sections 23-1-210 and 23-20-10 et seq. of the Code of Laws of South Carolina, 1976 as amended.

**WHEREAS**, any agreements entered into pursuant to this law on behalf of a law enforcement authority must be approved by the appropriate state, county, or local law enforcement authority's chief executive officer

**WHEREAS**, law enforcement officers acting under this agreement shall be commanded by superior authority from within their own agency to maintain the peace or perform duties outside of their territorial limits. These law enforcement officers shall be under direction and authority of one person from their own agency/jurisdiction. That person shall in turn be under the direction and authority of the host jurisdiction to which they are called to perform law enforcement or peace duties. They shall have all powers and authority of law enforcement officers and peace officers as provided by law, including the power of arrest. All arrests and any enforcement actions and prosecutions shall remain within the jurisdiction where such actions would be properly brought in the absence of this agreement.

**WHEREAS**, this governing body acknowledges and approves the memorandum of understanding among the attached list of agencies that has been in place with the Chief of Police, That allows law enforcement services and assistance to be provided among these jurisdictions during times of emergency and routine law enforcement work when mutual aid would best serve the interests of each jurisdiction and its residents.

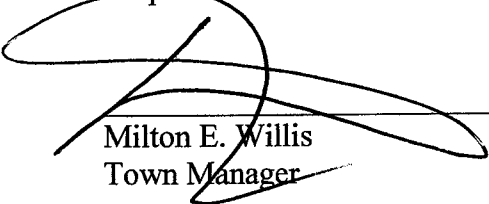
**WHEREAS**, The Town of Port Royal authorizes the Chief of Police or his designee, to render and request mutual law enforcement aid from any Municipality or County agency as identified in the attached listing to the extent of available personnel and equipment not required for adequate protection of the remainder of the Town of Port Royal. The Chief of Police or designee shall determine the amount of personnel and equipment available to render mutual law enforcement aid to the requesting agency. It is further recognized that his/her decision shall be final.

**WHEREAS**, The Chief of Police is authorized at his or her discretion to enter into an agreement with Federal, State and Local authorities as it relates to the Beaufort/Jasper Multi Agency Drug Task Force.

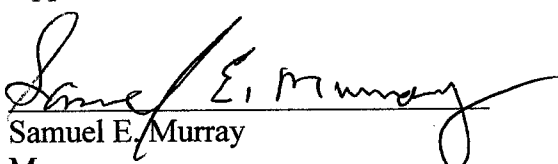
**NOW THEREFORE BE IT RESOLVED** by the Town Council of Port Royal, South Carolina, that Council hereby approves the attached mutual aid agreement and authorizes the Chief of Police to enter into agreement with each Municipality or County agency, identified in the attached listing.

Adopted this 12th day of September 2012.

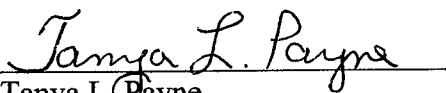
Requested:

  
Milton E. Willis  
Town Manager

Approved:

  
Samuel E. Murray  
Mayor

Attest:

  
Tanya L. Payne  
Municipal Clerk

**STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
RULE TO SHOW CAUSE HEARING**

Mare Baracco  
1006 Madrid Avenue  
Port Royal, SC 29935

**MAGISTRATE SUMMONS**

You are hereby summoned to be and appear personally in the Court of the  
**Beaufort Magistrate, located at 104 Ribaut Road Post Office Box 2207 Beaufort, SC  
29901 on March 12, 2013 at 9:00 AM** to serve as a party in a Bench Trial in the case  
of:

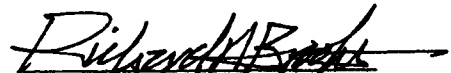
**RE:    State Of South Carolina                      Vs            Mare Baracco**

\_\_\_\_\_  
**PLAINTIFF(S)**

\_\_\_\_\_  
**DEFENDANT(S)**

Civil Case Number: **2012CV0710401536, Petition.**

**HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN  
SUCH CASE MADE AND PROVIDED.**

  
JUDGE

**Beaufort Magistrate  
104 Ribaut Road Post Office Box 2207  
Beaufort, SC 29901  
Phone: (843) 255-5700 Fax: (843) 255-9516**

**February 5, 2013**

**RECEIVED**

JUL 17 2014

**SC Court of Appeals**

Rule To Show Cause before Judge Brooks held March 12, 2013

SHEET 1 PAGE 1

1 STATE OF SOUTH CAROLINA )
2 ) IN THE MAGISTRATE'S COURT
3 COUNTY OF BEAUFORT )
4 )
5 )
6 )
7 STATE OF SOUTH CAROLINA, )
8 )
9 Plaintiff, )
10 ) Case Number
11 -versus- ) 2012-CV-07-10401536
12 )
13 MARE BARACCO, )
14 )
15 Defendant. )
16 )
17 )
18 )
19 )
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28 )

Transcript of a Rule To Show Cause Hearing before the Honorable Richard Brooks taken on the 12th day of March, 2013, in the Arthur Horne Building, Beaufort County Government Center, 100 Ribaut Road, Beaufort, South Carolina, commencing at approximately 9:14 a.m.

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JUL 17 2014

SC Court of Appeals

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1 APPEARANCES OF COUNSEL
2
3
4 For the State: Joshua A. Gruber, Esquire
5 BEAUFORT COUNTY STAFF ATTORNEY
6 Post Office Box 1228
7 Beaufort, South Carolina 29901
8
9 For the Defendant: Kimberly L. Smith, Esquire
10 MOSS, KUHN & FLEMING, P.A.
11 Post Office Drawer 507
12 Beaufort, South Carolina 29901
13
14 Reported by: Matthew Hazen Anderson
15 Notary Public/Court Reporter
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1 THE COURT: Okay. Good morning. I'm Judge
2 Richard Brooks. This is Beaufort County Magistrate's
3 Court. It is Tuesday, March the 12th, 2013, and we are
4 here for a rule to show cause in the matter of -- where is
5 that caption -- State of South Carolina versus Mare
6 Baracco? Am I pronouncing that correctly?
7 MS. SMITH: It's Mare.
8 THE COURT: Mare?
9 MS. SMITH: Baracco.
10 THE COURT: Mare Baracco. And this is civil case
11 number 2012-CV -- excuse me -- 07-10401536, and for the
12 State, we have Mr. Josh Gruber --
13 MR. GRUBER: Good morning, Your Honor.
14 THE COURT: -- the Beaufort County Attorney, and
15 for the Defendant, we have Ms. Kimberly Smith of the Moss,
16 Kuhn & Fleming law firm. And this is a rule to show cause
17 on an issuance of a dangerous animal notice by Beaufort
18 County. All right. Is there anything we need to address
19 before we proceed?
20 MR. GRUBER: No, Your Honor. I'd just put on the
21 record, as we discussed in chambers, I believe this matter
22 arises as more of an appeal of the determination made by
23 the officer, and as such, the appellant would bear the
24 burden of proving this matter and would, therefore, go
25 first.

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

---

APPEAL FROM BEAUFORT COUNTY  
COURT OF COMMON PLEAS

---

MARVIN H. DUKES, III, MASTER-IN-EQUITY,  
BEAUFORT COUNTY  
TRIAL COURT CASE NO.: 2013CP0700918

---

APPELLATE CASE NO.: 2014-000636

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JUL 17 2014

**SC Court of Appeals**

THE STATE,

Respondent,

v.

MARE BARACCO,

Appellant.

**PROOF OF SERVICE**

I certify that I have served copies of the Appellant's Motion to Dismiss on the Respondent by depositing a copy of it in the United States Mail, postage prepaid, on July 16, 2014, addressed to their attorneys of record, as follows:

**Parkin Hunter**  
**SC Attorney Generals Office**  
**1000 Assembly Street, Room 519**  
**Columbia SC 29201**  
**(803) 734-3970**  
**Mary Bass Lohr**  
**Post Office Box 40**  
**Beaufort, South Carolina 29901-0040**  
**(843) 522-2400**  
**Attorneys for Respondent.**



---

**Mare Baracco, Pro Se**  
**1006 Madrid Avenue**  
**Port Royal, South Carolina 29935**  
**(843) 592-1062**

**MARE BARACCO**  
**1006 Madrid Avenue**  
**Port Royal, South Carolina 29935**  
**(843) 592-1062**  
**maremailmmm@yahoo.com**

July 16, 2014

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**

JUL 17 2014

**SC Court of Appeals**

RE: The State vs. Mare Baracco,  
Appellate Case No.: 2014-000636

Dear Ms. Kitchings:

Please accept the enclosed Motion to Dismiss; I am enclosing a check for the filing fee of \$25.00; I'm unsure if there's a fee is required so I'm including it just in case. I've also attached Proof of Service on the Attorneys for the Respondent.

Sincerely,



Mare Baracco, *Pro Se*  
1006 Madrid Avenue  
Port Royal, South Carolina 29935