

THE STATE OF SOUTH CAROLINA
SOUTH CAROLINA COURT OF APPEALS

RECEIVED

MAY 07 2015

APPEAL FROM BEAUFORT COUNTY
COURT OF COMMON PLEAS

SC Court of Appeals

MARVIN H. DUKES, III, MASTER-IN-EQUITY,
BEAUFORT COUNTY
TRIAL COURT CASE NO.: 2013CP0700918
(Original Case No: 2012CV0710401536)

APPELLATE CASE NO.: 2014-000636

BEAUFORT COUNTY,

Respondent,


vs.

MARE BARACCO,

Appellant.

75913

PETITION FOR AN EXPEDITED HEARING, FOR A
MOTION TO REVERSE/DISMISS THE MAGISTRATE COURT ORDER OF APRIL 8,
2015 FROM A "RULE TO SHOW CAUSE"



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

Date: May 5, 2015

Mare Baracco, the Appellant herein, moves this Court, pursuant to the South Carolina Rules of Civil Procedure, the Due Process Clauses of South Carolina and United States Constitutions, and lack of subject matter, personal and territorial jurisdiction of the administrative agency and Beaufort County, for an Expedited Hearing and reversal/dismissal of an "Order" by Beaufort County Magistrate Judge Richard Brooks, April 8, 2015. The "Order" for (alleged) "Contempt of Court" includes a conditional ten day jail sentence, restrictions on the use of her personal property, and threat of seizure of said property. Appellant contends this hearing was in violation of (but not limited to) SCRCF Rule 241a - 241(d), which provides specific "Rules" for the lifting of a "Stay" that Respondents were not in compliance with, and SCRCF Rule 58, "Entry of Judgement". These "Rules" were not followed by the Magistrate Court, nor the attorney(s) for Beaufort County, nor the administration of Beaufort County and, agents and employees of the Town of Port Royal, who are and have been intimately and actively involved in this matter, in violation of the Home Rule Act of 1975 and Article VIII of the South Carolina Constitution. The Appellant has included the audio recording of this hearing for this Court's review (as there is no written "Order" that the Appellant's aware of).

As this Honorable Court already has in its possession relevant documents and history regarding this matter, the Appellant provides this summary for reversing the "Order" from this hearing by Beaufort County Magistrate Richard Brooks. The alleged "contempt of court" is for an alleged violation by the Appellant, of an "Order" (from a hearing before Judge Brooks, May 2, 2013) that the Appellant muzzle her dog, Bodi, when off her property (this Court is in possession of this audio from May 2, 2013). The Appellant asserts there is no such "Order", nor provision in state law and further, the Appellant is not subject to ordinances from Beaufort County, as she is a resident of the incorporated municipality of the Town of Port Royal

and was acquitted of violating Port Royal's ordinance 3-53 relative to this incident. Appellant has claimed, since she first received this "Official Notice" from agents of Beaufort County, that it is a) based on a mistake by the County in extending their ordinance, illegally, into the municipality of Port Royal b) this "Notice" was created by a county employee, without review by Beaufort County Council, and c) the enforcement section 14-35 is replete with errors made by county employees when these Ordinances were revised in 2010.

Also, that upon the Appellant's acquittal November 8, 2012 Town of Port Royal agents/employees/ and the other party in this matter, Sally Germer, secretly communicated with agents and employees of Beaufort County, in order to illegally continue this matter against the Appellant in the Beaufort County Magistrate Court.

1. The Appellant filed two Motions prior to the April 8, 2015 hearing, once it became clear the Respondents were not going to follow the Rules of Civil Procedure, pursuant to SCRPC Rule 241 a-d, which is to petition the Court of Jurisdiction (this Court) to reverse the automatic stay. One of her Motions was to request a continuance, as this matter is on Appeal (attached 1.) The second was a Motion to Dismiss (attached 2) contending (amongst other things) the Beaufort Magistrate Court has no jurisdiction, of any kind, in this matter, pursuant to the Home Rule Act of 1975 and Article VIII of the South Carolina Constitution. To this point of jurisdiction the Appellant cited a document by the South Carolina Attorney General's office, which addresses the specific issue of a county's exercise of its police power, and its enforceability of its ordinances, within a municipality. *"The constitution does not provide for such power"* and *"the county's exercise of police power is restricted to the unincorporated areas of the county"* and *"a*

county could not exercise power within an incorporated municipality unless such agreement existed or, in effect, the municipality has assented to the county's exercise of power". (attached –

3). There was no contract nor agreement between the incorporated municipality of Port Royal and unincorporated Beaufort County regarding their ordinances for Animal Control. The Appellant's Motions were dismissed.

And, the Appellant raised the issue of jurisdiction to the court upon commencement of this hearing. Beaufort County knew or should have known, since Appellant was a resident of the municipality, the Town of Port Royal, any actions they took in regard to this matter were void in the following ways: (1) they acted without authority in another jurisdiction; (2) they were not in pursuit of the Appellant to enforce one of their own ordinances that Appellant would have had to violate while in their jurisdiction to confer their jurisdiction upon her (Section 17-13-40 of the *South Carolina Code of Laws, 1976, as Amended*). They, in fact, pursued her without warrant or any other authority when they entered upon her property to observe her personal property, investigated a matter that was not within their proper perusal and acted without any proper jurisdiction when they issued an unapproved "Official Notice" pursuant to an Ordinance of their jurisdiction. Therefore, they were not, and could not confer upon themselves they were the proper Administrative Agency, under whose ordinances Appellant was subject to and required to be subject to their procedures when contesting the same. The Town of Port Royal did not adopt the ordinances of Beaufort County, and when Beaufort County acted within the jurisdiction of the Town of Port Royal, it was required to act upon the direction and control of the municipality.

“Jurisdiction, once challenged, cannot be assumed and must be decided.” *Basso v. Utah Power & Light Co.*, 495 F2d 906, 910. “Defense of lack of jurisdiction over the subject matter may be raised at any time, even on appeal.” *Hill Top Developers v. Holiday Pines Service Corp.*, 478 So2d 368 (Fla 2nd DCA 1985).

“A court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court.” *Old Wayne Mut. L. Assoc. v. McDonough*, 204 US 8, 27 S. Ct. 236 (1907).

“Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lack jurisdiction, the court has no authority to reach merits, but rather should dismiss the action.” *Melo v. U.S.*, 505 F2d 1026. “Once challenged, jurisdiction cannot be assumed, it must be proved to exist.” *Stuck v. Medical Examiners*, 94 Ca2d 751. 211 P2d 389.

“There is no discretion to ignore that lack of jurisdiction.” *Joyce v. US*, 474 F2d 215. “The burden shifts to the court to prove jurisdiction.” *Rosemond v. Lambert*, 469 F2d 416.

Appellant further contends that in each instance she has asserted lack of jurisdiction or contested any other matters in this case, and the Administrative Agency and their courts have proceeded regardless in their pursuit of this matter, they have deprived her of one or more of her constitutional rights, including, but not limited to, due process.

“The privileges and immunities of citizens of this State and the United States shall not be abridged, nor shall any person be deprived of life, liberty, and property without due process of law, nor shall any person be denied the equal protection of the law.” Article 1, Section 3, *South Carolina Constitution*.

2. Further, that this matter, by law, is *Administrative* (the administrative agency, Beaufort County Sheriff’s Office, incorrectly and improperly scheduled this matter from its inception in the Magistrate’s Court as a civil proceeding; this was wrong). If the agency had

jurisdiction in this matter, a hearing should have been established before a board or council, pursuant to Title 1, Chapter 23. As proof, the Appellant requested of the Magistrate she be allowed to play the audio recording, *from the magistrate court's own proceeding of May 2, 2013* (this Court would refer to this audio recording, which it has in its possession) of County Attorney Josh Gruber stating "***this is not a criminal matter, it's not a civil matter, it's administrative***", for the record, and to confirm the lack of jurisdiction. The Appellant's request was denied. This Court will please take note as to how this case is classified in its own records, as this matter cannot be both an "Administrative Determination" and a "Civil Appeal" at the same time.

Appeal – Common Pleas – Civil Appeal from Summary Court

3. There is no written "Order" from May 2, 2013 or any other time, as this case been contested by the Appellant since its issuance July 9, 2012 and has been continuously on appeal since. The Respondents have, by the issuance of this most recent "Rule to Show Cause" (attached 4), simply ignored another SCRCP Rule, 58: All orders must be in writing, signed by the judge and entered by the clerk of court - *Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d 643 (2006)*. To this point in fact, the Appellant has never received a written "Order" from this April 8, 2015 hearing either, and thus cannot present it to this Court for review.

4. The "Rule to Show Cause" upon which this hearing is based, is defective (like all previous "RTSC's" issued to the Appellant in the pendency of this matter, of which this Court has copies).

In the attached "Rule to Show Cause" for April 8, 2015, there are no "*clear, specific allegations being set forth for the court and the responding party*", per Rule 14, the "sworn affidavit" does not specify the (alleged) violation, nor what relief the moving party is seeking.

To wit, directly from Rule 14:

The supporting affidavit or verified petition shall identify the court order, decree or judgment which the responding party has allegedly violated, the specific act(s) or omission(s) which constitute contempt, and the specific relief which the moving party is seeking. Such court order, decree or judgment shall be attached to the affidavit or certified petition.

The failure to support the “Rule to Show Cause” by an affidavit or verified petition is a “fatal defect” *Toyota of Florence v. Lynch* 314 S.C. 257, 442 S.E. 2d 611. Further, in this “Rule to Show Cause” a significant page from Port Royal Ordinance Officer Edgar Jansen’s report is “missing”: the Supplemental Report dated February 11, 2015. The Appellant only became aware of its existence from a FOIA request (attached - 5). As the Court can see from this report, Officer Jansen could not find any statute or ordinance the Appellant was/is in violation of. The Appellant asked to submit this report as evidence, and also the (alleged) Beaufort County ordinance 14-35 she was “in violation of”, and the South Carolina Statute Section 47-3-720 it’s based upon, to show Judge Brooks this “violation” was in fact an error by a Beaufort County employee, contained in the Beaufort County code of ordinances 14-35, wherein this state statute was incorrectly transcribed to the Beaufort Code of Ordinance 14-35 (attached 6 and 7). The Magistrate would not admit any of these documents into evidence, even though it is clear by these documents the Appellant is innocent of any violation.

This Court would note that, *again*, it is employees/agents of the Town of Port Royal who are the instigators of this most recent complaint to Beaufort County, in reference to an incident which occurred within *their* jurisdiction in 2012, and was adjudicated by *their* municipal court, in 2012, pursuant to Home Rule and the South Carolina Constitution. The Appellant states it is *their* actions, in conjunction, *again*, with agents of Beaufort County, that are in violation of the law and the Constitution. All of them, as officials, administrators and attorneys should know Home Rule, the State and Federal Constitution, *and their own jurisdiction, limits of their authority, and the rules governing their offices.*

5. The Appellant subpoenaed two Beaufort County Councilpersons, Rick Caporale and Cynthia Bensch. The Appellant was made aware, prior to this hearing, of information elected County Officials had regarding this case and the course of conduct leading to this hearing (attached 8 - 9). These Councilpersons were to give testimony for the record (including information these defective ordinances have been under revision for the past year, since this matter has been on Appeal) and were not allowed to do so, as this Court will hear on the audio.

In summary, the Appellant was forced to appear, *again*, before a court without jurisdiction, to answer to an “*Official Notice*” that’s illegal, based upon a defective ordinance, issued in violation of the law, in contempt of a non-existent “Order” and Statute.

WHEREFORE, for the above reasons, the Appellant respectfully requests this Court dismiss/reverse the “Order” from April 8, 2015, and the entirety of this case, with prejudice, restore the Appellant’s right to her property, and order such other relief as is just and proper. Respectfully submitted, this the 5 day of May 2015.



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

Authorities ii

AUTHORITIES

Home Rule Act of 1975
Article 1, Section 3 South Carolina Constitution
Basso v. Utah Power & Light Co., 495 F2d 906, 910.
Hill Top Developers v. Holiday Pines Service Corp., 478 So2d 368 (Fla 2nd DCA 1985).
Old Wayne Mut. L. Assoc. v. McDonough, 204 US 8, 27 S. Ct. 236 (1907).
Melo v. U.S., 505 F2d 1026
Stuck v. Medical Examiners, 94 Ca2d 751. 211 P2d 389.
Joyce v. US, 474 F2d 215
Rosemond v. Lambert, 469 F2d 416
Upchurch v. Upchurch, 367 S.C. 16, 624 S.E.2d 643 (2006)
Toyota of Florence v. Lynch 314 S.C. 257, 442 S.E. 2d 611

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STATUTES

S.C. Code Ann. Section 1-23-10, et seq.
S.C. Code Ann. Section 47-3-720
S.C. Rule 14
S.C. Code Ann. Section 17-13-40

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OTHER AUTHORITIES

Audio CD – Hearing April 8 2015
“Rule to Show Cause” March 9, 2015
Beaufort County Ordinance 14-35 (b)
Motion to Dismiss
Motion for Continuance
“Missing” February 11, 2015 Supplemental Port Royal Police Report
“Notice”
Attorney General Opinion August 10, 2011
E-Mails

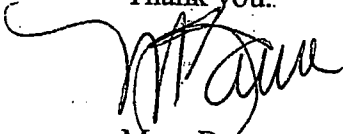
Mare Baracco
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062

April 1, 2015

Ms. Stephanie Garst
Clerk of Court
The Beaufort County Magistrate Court
PO Box 2207
Beaufort SC 29901

Dear Ms. Garst:

I am requesting a continuance of Case Number 2012CV0710401536, pursuant to
SCRCP Rule 241(a), as this matter is on appeal before the South Carolina Court of Appeals
(SC court of appeals case # 2014-000636).
Thank you.


Mare Baracco

Enc.

cc: Josh Gruber

BEAUFORT CO MAGISTRATE COURT
CENTRAL COURT NORTH
2015 APR -1 AM 11:27



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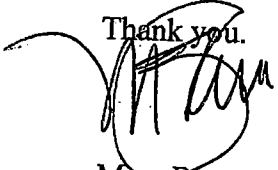
Mare Baracco
1006 Madrid Avenue
Port Royal, South Carolina 29935
(843) 592-1062

April 1, 2015

Ms. Stephanie Garst
Clerk of Court
The Beaufort County Magistrate Court
PO Box 2207
Beaufort SC 29901

Dear Ms. Garst:

Please see the attached Motion to Dismiss, re Case Number 2012CV0710401536.

Thank you.

Mare Baracco

Enc.

cc: Josh Gruber

BEAUFORT CO MAGISTRATE COURT
CENTRAL COURT NORTH

2015 APR -1 AM 11:06



STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

IN THE MAGISTRATES COURT

Beaufort County)
PLAINTIFF)

STREET ADDRESS)
CITY STATE ZIP CODE)
TELEPHONE)

vs.

ANSWER

MARE BODICO)
DEFENDANT)
1006 Madrigal)
STREET ADDRESS)
Port Royal)
CITY STATE ZIP CODE 29935)
TELEPHONE)

CHECK ONE:

- A. I do not live in this county. I want this case transferred to my home county if possible.
- B. I admit everything in the complaint and do not want a trial.
- C. I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s).
- D. I deny that I am responsible at all.

If you check "C" or "D", briefly explain the reasons for your answer:

Please see attached motion to Dismiss.

THE DEFENDANT STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE.

DATED: 4/1/2015

[Signature]
Signature of Defendant
(or his attorney)

KEEP A COPY OF THIS ANSWER AND BRING IT TO COURT

Mare Baracco, the Defendant herein, moves this Court, pursuant to the South Carolina Rules of Civil Procedure, the Due Process Clauses of South Carolina and United States Constitutions, and lack of subject matter, personal and territorial jurisdiction of the administrative agency and Beaufort County, to dismiss the above-captioned case for the following reasons:

1. The Supplemental Report by Port Royal Ordinance Officer Edgar Jansons, dated February 11, 2015, states "the Port Royal Police Department has no jurisdiction in the case in reference to the dog (Bodi) wearing a muzzle. This Officer has searched and reviewed all ordinances and state statute and was unable to find anything pertaining to wearing a muzzle". (The Court will note this Supplemental Report was obtained through the submission of a FOIA dated February 23, 2015 and was *not* included in the documents sent her by the county).
2. Lack of jurisdiction of the administrative agency and Beaufort County, pursuant to the Home Rule Act and article VIII, section 13 of the South Carolina Constitution "a county could not exercise power within an incorporated municipality unless such agreement existed or, in effect, the municipality has assented to the county's exercise of power". And "counties and cities are viewed as co-equal political subdivisions which are independent of each other politically, geographically, and governmentally". (Attorney General full opinion, August 10, 2011 beginning page 2, paragraph 3, continued through page 4, attached).
3. Defendant was acquitted November 8, 2012 in the Town of Port Royal, by a jury trial, in their Municipal Court, which had subject matter, personal and territorial jurisdiction of this case (attached).
4. The written "Notice", comprising the entirety of the County's case against the Defendant, was not legally promulgated by the proper governing authority (Beaufort County Council). Based upon Defendant's information and belief, this "Notice" was created by a former employee(s) of Beaufort County, outside of the legislative process, and is not a (legal) instrument. This Honorable Court would note the Defendant has twice asked Beaufort County

for proof of its legitimacy and has not, to date received a response. Further, Beaufort County Ordinance 14-35, upon which this "Notice" was ostensibly based, is inconsistent with both the "Notice" and the State Statute(s) it purports to reference, specifically (ex.) in relation to "requirement" for insurance (absent in ordinance 14-35); and with particular specificity the "requirement" "*shall be securely muzzled or caged whenever off the premises of the owner*". (S.C. Code 1976, 47-3-720). There is no requirement, in any state statute that stipulates this. In fact, S.C. Code 1976 – 2000 and 2000 – 2014 section 47-3-720 makes no mention of any such proviso. Also, state statute permits a "fence" as an "enclosure". This is also "missing" from both 14-35, and the "Notice". These provisions bear no relation to state law and, the local ordinance and "Notice" also have higher fines (\$500.00 and \$1092.50, respectively, for a first offense; wherein the state statute is only \$200.00 (first offense). This disparity, in the fines alone, creates serious questions as to the legitimacy of the ordinance, as well as the "Notice". (attached).

5. This matter was placed before the Magistrate Court's purview, as a Civil case, due to an error by an employee of the agency, when the Defendant initially challenged the legality of this "Notice" July 10, 2012. The Defendant was never actually "charged" with anything (and never with a violation of a state statute); she questioned a policy of the county "*contested the determination of an employee of an agency*"; therefore, this matter should have been established, then, by the agency, as an "*Administrative Hearing*", which is "Quasi-Judicial", pursuant to *Title 1, Chapter 23 "State Agency Rule Making and Adjudication of Contested Cases", Sections 1-23-310 through 1-23-400*. It was placed in the Magistrate Court incorrectly, and it has stayed in this branch of the court system since. This Court's audio recording from May 2, 2013, beginning at minute 8:40 confirms, by the county attorney, the proper

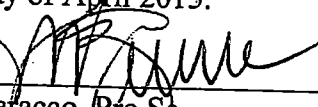
"assignment" of this matter as "not criminal, not civil, it's administrative".

6. Testimony was given to this honorable Court March 12, 2013 by a witness for the prosecution, Sally Germer, that was material to this case and should have been impeached, but was not. This Court has audio of this testimony and follow up questions to this witness (attached). The Court office has audio file of Ms. Germer's answer to the same question, from the first hearing on the matter before Judge Kline, August 8, 2012 (attached).. The Defendant also includes, for this Court's review, an affidavit relative to this testimony, from the Motion 60 hearing before Judge Dukes February 2014, and an e-mail letter, from John Gray, in response to comments about this matter, made by Germer to Beaufort County Council March 9, 2015, which referenced his family. This e-mail includes a response by one of the council members present. The Defendant contends had this Court been aware of this individual's penchant for telling "stories", this Court's ruling March 12, 2013 would likely have had a different outcome.

The Defendant believes this Honorable Court was not in possession of this information in 2013, and further, was misled when this matter was brought to its steps. The Defendant herself was not made aware of most of the information contained within this Motion until well after this Court's involvement in the matter. The Defendant seeks only to right a wrong, to avert what has been an ongoing miscarriage of justice against her, and she wishes to spare the citizens of Beaufort County the cost of yet another unnecessary hearing, such hearing which is not within its jurisdiction.

WHEREFORE, for the above reasons, the Appellant respectfully requests that this Court dismiss this case with prejudice and order such other relief as is just and proper.

Respectfully submitted, this the 1st day of April 2015.


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



ALAN WILSON
ATTORNEY GENERAL

August 10, 2011

Marvin C. Jones, Esquire
Jasper County Attorney
Post Office Box 420
Ridgeland, South Carolina 29936

Dear Mr. Jones:

We understand you desire an opinion of this Office concerning the enforcement of a county ordinance within an incorporated municipality. In your letter, you provided the following information:

Recently Jasper County Council adopted an ordinance which provides as follows: "Commercial establishments which allow for the on premises consumption of beer, ale, porter, and/or wine shall be prohibited from operating between the hours of 2:00 o'clock A.M. and 6:00 o'clock A.M. on Mondays through Saturdays." A question has arisen as to whether or not this Ordinance has any application within the incorporated portions of the County.

Law/Analysis

Our Supreme Court explained that

[d]etermining whether a local ordinance is valid is a two-step process. The first step is to determine whether the [county] had the power to adopt the ordinance. If no power existed, the ordinance is invalid. If the [county] had the power to enact the ordinance, the second step is to determine whether the ordinance is consistent with the Constitution and general law of the State.

Bugsy's, Inc. v. City of Myrtle Beach, 340 S.C. 87, 93, 530 S.E.2d 890, 893 (2000).

Section 4-9-25 of the South Carolina Code (Supp. 2010) provides the specific powers given to counties by the Legislature. This provision states as follows:

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the

Mr. Jones
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August 10, 2011

Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.

S.C. Code Ann. § 4-9-25.

Our Supreme Court and this Office recognize section 4-9-25 provides general police powers to counties. See Greenville County v. Kenwood Enterprises, Inc., 353 S.C. 157, 164, 577 S.E.2d 428, 431 (2003), overruled on other grounds by Byrd v. City of Hartsville, 365 S.C. 650, 620 S.E.2d 76 (2005); Ops. S.C. Atty. Gen., September 22, 2008; April 7, 2008. We believe Jasper County (the "County") has the authority, pursuant to its police power granted by this provision to pass an ordinance regulating the sale of alcohol during certain hours. In addition, we understand from our Supreme Court's decision in Denene, Inc. v. City of Charleston, 352 S.C. 208, 574 S.E.2d 196 (2002) that a local government's enactment of an ordinance further regulating the operations of retailers of alcoholic beverages is not preempted by State law. Therefore, we believe a court would likely find the County's ordinance valid.

Nonetheless, your question deals not with the validity of the County's ordinance, but its enforceability within a municipality located in the County. As you mentioned in your letter, in 1988, this Office addressed the applicability of a county ordinance within the incorporated areas of the county. Op. S.C. Atty. Gen., February 25, 1988. Although the passage of the Home Rule Act granted police powers to counties, the opinion states "it is doubtful, that counties have the power to extend their regulatory authority to areas that are within the confines of incorporated municipalities." Id. We stated the Constitution does not provide for such power. Id. In addition, we noted that through the Home Rule Act, the Legislature acknowledged limitations on a county's authority within incorporated areas. Id.

This Office has, on several occasions, expressed its belief that a county's exercise of police power is restricted to the unincorporated areas of the county. In an opinion dated October 2, 1984, the 'intent of the General Assembly to recognize the autonomy of a municipality within its borders and likewise recognizes the autonomy of the county within the unincorporated areas of the county' was discussed. Likewise, in an opinion dated May 21, 1987, we concluded that a Richland County anti-smoking ordinance would be of no effect for facilities of the Richland County Recreation Commission located within a municipality of the county.

Mr. Jones
Page 4
August 10, 2011

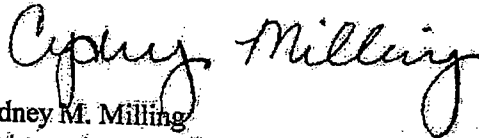
any specific authority over municipalities. Thus, for the same reasons we explained in our 1988 opinion, we believe that despite the passage of section 4-9-25, county ordinances are not generally enforceable within the incorporated areas of a county. However, as we pointed out in 1988 opinion, as well as several subsequent opinions, a municipality may choose to enforce a county ordinance within its boundaries by entering into an agreement with the county.

Our determination is in accord with our more recent opinions. In a 1996 opinion, we concluded that a Pickens County ordinance concerning demonstrations and protest would not be applicable within the Pickens city limits unless Pickens County and the City of Pickens enter into an intergovernmental agreement recognizing the enforceability of the county's ordinance. Op. S.C. Atty. Gen., May 20, 1996. See also Op. S.C. Atty. Gen., February 8, 2011 (finding "[c]ounties and other municipalities may agree to jointly administer services or exercise powers, but a county could not exercise power within an incorporated municipality unless such an agreement existed or, in effect, the municipality has assented to the county's exercise of power.").

Conclusion

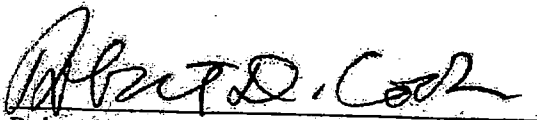
The Legislature's enactment of section 4-9-25 certainly affords general police powers to counties, and we believe a court would likely find the County has the authority to regulate the hours in which alcohol may be sold pursuant to this provision. However, we do not believe that section 4-9-25 affords counties any additional authority over the incorporated areas within their boundaries. Therefore, based on the reasoning of our 1988 opinion, we continue to believe county ordinances generally are not enforceable within municipalities unless the county and the municipality enter into an agreement. Accordingly, we believe the County ordinance you reference is not enforceable within the County's municipalities unless such an agreement exists.

Very truly yours,



Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General

Mr. Jones
Page 3
August 10, 2011

Our beliefs are in accordance with the general law on this issue. Counties and cities are viewed as co-equal political subdivisions which are independent of each other politically, geographically, and governmentally. City of Richmond v. Board of Supervisors of Henrico County, 199 Va. 679, 101 S.E.2d 641 (1958); Murray v. City of Roanoke, 194 Va. 321, 64 S.E.2d 804 (1951). As stated in 62 C.J.S. Municipal Corporations § 114:

Constitutions and statutes providing for different types of government for the counties and cities of the state establish the policy of placing urban areas under city government and keeping rural areas under county government. A county has no legal right to legislate for a municipal corporation located within its limits on any subject which is within the scope of the powers granted the corporation, and particularly on any matters involving the police power of the state. When a municipal corporation is organized within the limits of a county, then as much of the territory of such county as is comprehended within the municipal limits of such corporation is, so far as local government is concerned, withdrawn from the county, and any ordinance or regulation passed by the county has no binding force on the municipality as to any matters or subjects as to which the municipality is vested with the power to enact. Constitutional provisions authorizing municipalities to transfer powers to a consenting county do not relate to or affect state powers. [Footnotes omitted.]

See also Hobb v. Abrams, 104 Idaho 205, 657 P.2d 1073 (1983).

Id. We continued on to explain that we believe article VIII, section 13 of the South Carolina Constitution, allowing local governmental bodies to enter into agreements for the joint administration of governmental functions and exercise of powers, further supports the understanding that "a county could not exercise power within an incorporated municipality unless such an agreement existed or, in effect, the municipality has assented to the county's exercise of power." Id. Furthermore, we explained that municipalities are afforded their own sovereign police powers and just because the municipality has not chosen to exercise its powers in a particular area does not give the county the inherent power to regulate the matter within the municipality. Id.

In your letter, you mentioned that we issued this opinion prior to the enactment of section 4-9-25, quoted above, and question whether or not its enactment would change our 1988 opinion. The Legislature enacted section 4-9-25 in 1989. However, we believe our opinion remains valid. While section 4-9-25 gives counties general police powers, we do not believe it gives counties

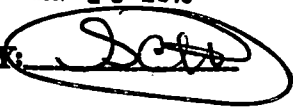
STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
)
)
 BEAUFORT COUNTY,)
 Plaintiff)
)
 -versus-)
)
 MARE BARACCO,)
 Defendant.)
 _____)

IN THE BEAUFORT COUNTY
 MAGISTRATE'S COURT
 CASE NUMBER: 2012CV0710401536

**NOTICE OF MOTION FOR
 RULE TO SHOW CAUSE**


BEAUFORT CO MAGISTRATE COURT
 CENTRAL COURT NORTH
 2015 FEB 23 PM 1:40

SCANNED
 FEB 23 2015

BY: 

TO: MARE BARACCO, DEFENDANT

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, by and through its undersigned attorney, will move before the presiding judge of the Beaufort County Magistrate's Court in Beaufort, South Carolina, ten (10) days from the date of this motion, or as soon thereafter as may be heard, for a Rule to Show Cause, that upon information and belief, the Defendant has failed to comply with the instructions of this court requiring her to take certain safety and restraint precautions with regards to her canine "Bodi". Based upon the attached incident reports and supporting affidavit, the Plaintiff would respectfully request an Order finding the Defendant in contempt of the Order issued by Judge Brooks on May 2, 2013, and issue such additional sanctions and instructions as may be necessary to ensure public safety.


 Joshua A. Gruber, Esq.
 Beaufort County Attorney

This 23rd day of February, 2015,
 at Beaufort, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

2012CV0710401536
Civil Case Number

Beaufort County,)
State Of South Carolina)
)
Plaintiff)

IN THE MAGISTRATE COURT

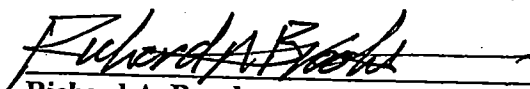
Vs)

RULE TO SHOW CAUSE

Mare Baracco)
)
Defendant)

TO: Mare Baracco

IT IS ORDERED THAT YOU APPEAR BEFORE THIS COURT ON April 8, 2015 at 10:00 AM, then and there to be prepared to show cause, if any, why the relief requested by Joshua A. Gruber, Attorney for Beaufort County Government (see attached) should not be granted and why you should not be held in contempt of court for failure to follow the Order of the Court.

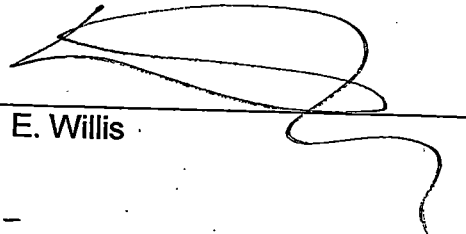

Richard A. Brooks
Summary Court Judge

Beaufort Magistrate
104 Ribaut Road
Beaufort, SC 29901
Phone # (843) 255-5700

March 9, 2015

AFFIDAVIT OF MILTON E. WILLIS, JR.

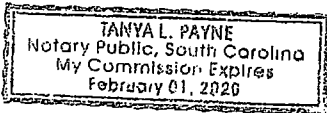
1. That my name is Milton E. Willis and I am over the age of eighteen (18) years.
2. I am a resident of Beaufort County, South Carolina.
3. That I am the manager of the Town of Port Royal and have held that position since August 2002.
4. On the morning of Friday, January 23, 2015, I was travelling back from the shrimp dock to my office due to a medical call at the dock. As I came towards Town Hall on Paris Avenue, I noted Mr. Tim Deckard and his dog Brodie. Mr. Deckard was riding his bike with Brodie's leash in his hand. I noticed that Brodie was not wearing his muzzle.



Milton E. Willis

SWORN TO BEFORE
me this 23 day of February, 2015.

Tanya L. Payne
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My Commission Expires:



INCIDENT REPORT SUPPLEMENTAL

4

Page #: 1

Case Number: C15PR1938

Officer: 135593 JANSONS, EDGAR Date Entered/Changed: 02/10/2015 Reviewer: Review Date:

TAILED STATEMENT OF INVESTIGATION: SYNOPSIS:

ON 2/10/2015 JOE YADRON BEAUFORT COUNTY ANIMAL CONTROL MET WITH THIS OFFICER AND CHIEF BEACH. THIS OFFICER GAVE A COPY OF THE MAGISTRATE ORDER THAT WAS ISSUED TO BARACCO ON MARCH 23, 2013. IT WAS EXPLAINED TO YADRON THAT BARACCO WAS IN COMPLIANCE OF THE ORDER ISSUED BY THE MAGISTRATE IN REFERENCE TO THE MUZZLE BEING ON THE BODY OF THE ANIMAL WHILE IN THE COMMUNITY. CHIEF BEACH STATED THAT BARACCO STOPPED BY THE POLICE STATION AND SHOW A DOCUMENT AND QUICKLY TOOK IT AWAY FROM THE CHIEF. WHEN CHIEF BEACH ASKED FOR A COPY OF THE DOCUMENT BARACCO STATED NO, "YOU KNOW HOW TO GET A COPY " YADRON STATED THAT HE WILL FOLLOW UP WITH THE MAGISTRATE IN REFERENCE TO THE ORDER. YADRON LATER DURING THE DAY VIA CELLULAR CALLED THIS OFFICER AND INFORMED THIS OFFICER THAT BARACCO HAD LOST HER APPEAL TWICE AND IS STILL IN VIOLATION OF THE ORDER. YADRON ALSO STATED THAT BARACCO IS NOT IN COMPLIANCE OF OTHER ISSUES PERTAINING TO THE ORDER. YADRON STATED THAT HE IS WAITING FOR THE BEAUFORT COUNTY ATTORNEY TO RENDER AN OPINION BEFORE HE PURSUE FURTHER LEGAL ACTION AGAINST BARACCO.

STATUS:
PENDING FURTHER ACTION

F.Y.I.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE MAGISTRATE'S COURT
Civil Case Number: 2012CVO710401536

STATE OF SOUTH CAROLINA)

Vs.

MARE BARACCO,
Defendant

ORDER
RULE TO SHOW CAUSE
Re: BEAUFORT COUNTY ORDINANCE 14-35

THIS MATTER COMES BEFORE THE COURT on a Motion raised by the Defendant through her attorney, Kimberly L. Smith, seeking revocation of a "Dangerous Animal" Notice.

The Defendant, Mare Baracco, on July 9, 2012, was issued an Official Notice by Lance Corporal Brittany Chaplin of the Beaufort County Sheriff's Office, Animal Control Division. The Official Notice informed the Defendant that her dog, Bodi, had been declared a "dangerous animal" pursuant to Beaufort County Code Section 14-35.

A Rule to Show Cause Hearing was held March 12, 2013, in the Beaufort County Magistrate's Court. Testimony established the key, salient, undisputed facts: that on July 4, 2012, Defendant's dog, Bodi, escaped from his enclosure and attacked Zoe, a neighbor's dog; at the time, Zoe was on her owner's leash walking on a public sidewalk; as a result of injuries sustained in the attack, Zoe died on July 6, 2012.

Beaufort County Code of Ordinances Section 14-35 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."

NOW, THEREFORE, upon reviewing the facts and law, the Defendant's Motion to reverse the "Dangerous Animal" Notice is denied.

[Redacted signature area]

SO ORDERED.

1006 Madrid Ave.

Richard A. Brooks
Richard A. Brooks, Magistrate

Beaufort, South Carolina
March 13, 2013

5

INCIDENT REPORT SUPPLEMENTAL

Page #: 1

Case Number: C15PR1938

Officer: 135593 JANSONS, EDGAR

Date Entered/Changed: 02/11/2015

Reviewer:

Review Date:

DETAILED STATEMENT OF INVESTIGATION: SYNOPSIS:

UPON FURTHER INVESTIGATION THIS OFFICER FOUND THAT ISSUE INVOLVING THE BARACCO DOG (BODI) IS A CIVIL CASE AND THEREFORE PORT ROYAL POLICE DEPARTMENT HAS NO JURDISTRATION IN THE CASE IN REFERENCE TO THE DOG (BODI) WEARING A MUZZEL. THIS OFFICER HAS SEARCHED AND REVIEWED ALL ORDINANCES AND STATE STATUE WAS UNABLE TO FIND ANYTHING PERTAINING TO WEARING A MUZZEL. SINCE THIS CASE IS A CIVIL ACTION THE ISSUE HAS BEEN REFERRED TO THE BEAUFORT COUNTY SHERIFF'S OFFICE FOR FURTHER INVESTIGATION.

STATUS:

PENDING FURTHER ACTION

State Statute

6-7

ARTICLE 13

Regulation of Dangerous Animals

SECTION 47-3-710. Definitions.

(A) As used in this article "dangerous animal" means an animal of the canine or feline family:

(1) 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;

(2) which:

(a) makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other than the place where the animal is confined as required by Section 47-3-720; or

(b) commits unprovoked acts in a place other than the place where the animal is confined as required by Section 47-3-720 and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being;

(3) which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting.

(B) "Dangerous animal" does not include:

(1) an animal used exclusively for agricultural purposes; or

(2) an animal which attacks a person who is trespassing or who appears to be trespassing. A trespasser is a person who is not lawfully upon the premises of the owner, as set forth in Section 47-3-770(A).

(C) An animal is not a "dangerous animal" solely by virtue of its breed or species.

(D) As used in this article "owner" means a person who owns or has custody or control of the animal.

(E) As used in this article, "injury" or "bodily injury" means (1) broken bones, (2) lacerations, (3) punctures of the skin, or (4) any physical injury resulting in death.

HISTORY: 1988 Act No. 515, eff May 9, 1988; 1992 Act No. 374, Section 1, eff May 19, 1992.

SECTION 47-3-720. Dangerous animal not to go unconfined on premises; "unconfined" defined; exceptions.

No person owning or harboring or having the care or the custody of a dangerous animal may

permit the animal to go unconfined on his premises. A dangerous animal is "unconfined" as used in this section if the animal is not confined securely indoors or confined in a securely enclosed fence or securely enclosed and locked pen or run area upon the person's premises. 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. However, this section does not apply to an animal owned by a licensed security company and on patrol in a confined area.

HISTORY: 1988 Act No. 515, eff May 9, 1988; 1992 Act No. 374, Section 1, eff May 19, 1992.

Beaufort County Ordinance

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).

6-7

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

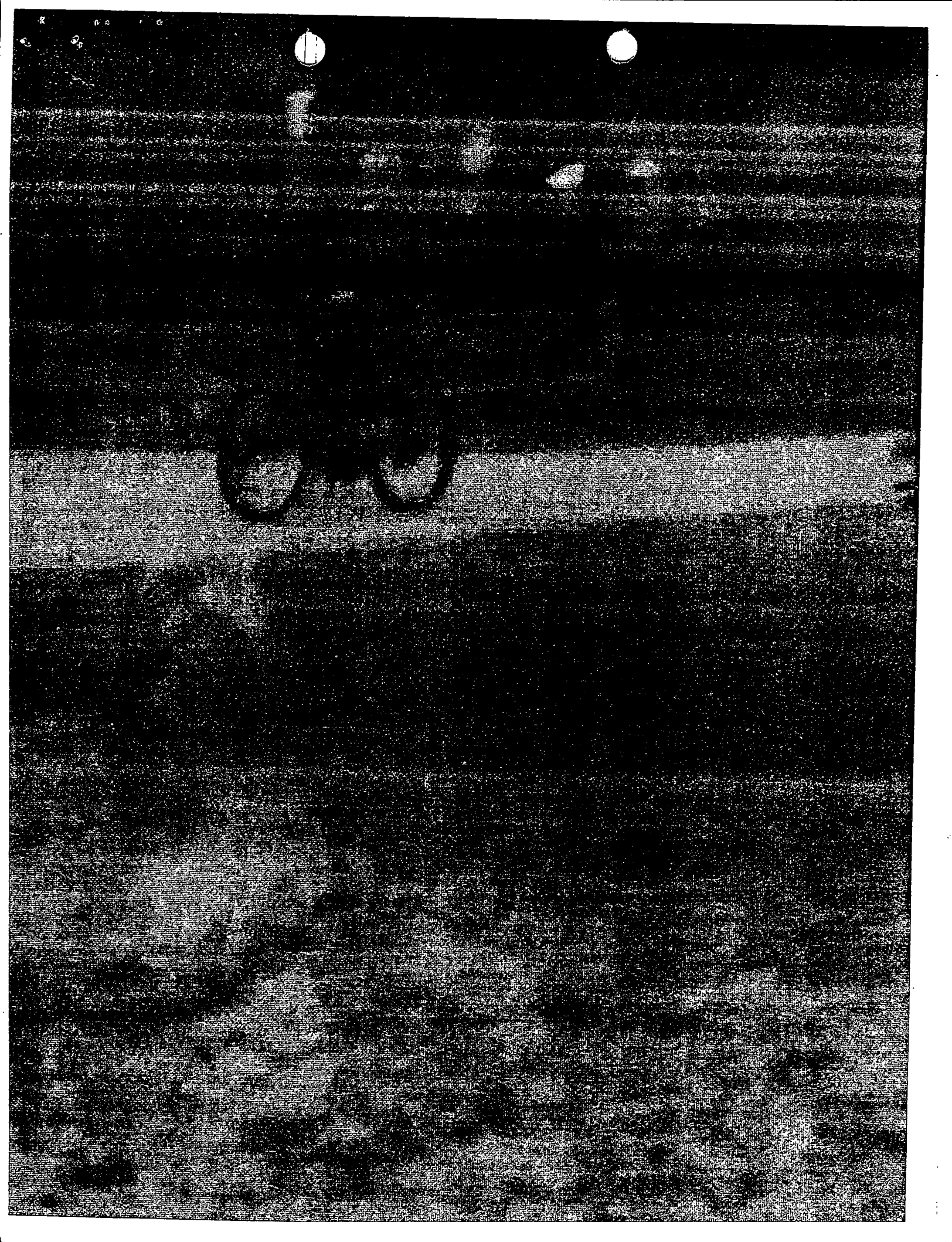
Receipt left with: [Signature] Date 7/9/12

Deputy: Lcp 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.



From: Caporale, Rick

> Sent: Thursday, April 09, 2015 9:24 PM

> To: Rodman, Stewart

> Cc: Foot, Philip; Trice, Tallulah; Kubic, Gary

> Subject: BCAS ORDINANCE REVISIONS

>

> Stu:

>

> As we discussed earlier today, it might be wise to see where staff is with regard to revisions in the current BCAS Ordinance(s). The changes have been in progress for at least a year now, and it would be useful for our Governmental Committee to get a preview of where we are headed, unless the changes are finally complete, in which case we should get it on the agenda a.s.a.p.

>

> Under the leadership of Phil and Tallulah, the experience of the last few years has proven that even the unlikely is doable when the right people are put in place. More recently, other incidents have demonstrated areas where we need to re-think how we do what we do and the specific contents of the ordinance as it relates to some troubling recent events.

>

> In particular, I am thinking of the display of big cats at a local flea market and, even more disturbing, the debacle we have participated in and contributed to with regard to defining "dangerous" animals. That whole piece needs to be revisited, and better ways of evaluating or assessing -- and documenting -- and justifying our judgments need to be put in place.

>

> As you may recall, law enforcement has always played a peculiar, if not dubious, role in the work of what we formerly called "the shelter," and it's clear, at least to me, that they are out of their element in scenarios like the Baracco matter. If we can't rid government of people who have a tendency to bully citizens and abuse their positions, at least we can pursue a more equitable rule book. Thanks.

>

> RC

>

> Rick Caporale

> District 8

> Beaufort County Council

> Cell: (843) 683-1771

8

From: Kubic, Gary
Sent: Friday, April 03, 2015 9:01 AM
To: Rick Caporale
Cc: Bensch, Cynthia; Gruber, Joshua; Stewart H. Rodman; Caporale, Rick; McElynn, Lawrence P.
Subject: Re: Court Order

Councilman Caporale:

I understand that the Magistrate Court delivered court records to Mare Baracco.

Do you want me to make a request to the Court for this information on your behalf?

I have copied this reply to the Chief Magistrate so that he is aware of it.

Please advise.

gkubic

8

From: Caporale, Rick
Sent: Friday, April 03, 2015 8:53 PM
To: Kubic, Gary; Rick Caporale
Cc: Bensch, Cynthia; Gruber, Joshua; Stewart H. Rodman; McElynn, Lawrence P.; Tom Davis
Subject: RE: Court Order

Mr. Administrator:

Thank you for the offer, but I do not believe the court records will enlighten me regarding the concerns I have at the moment, which, as you may remember, I expressed and clarified in a recent executive session. Again, those concerns are as follows.

First, I cannot find anything in the state statute on dangerous animals to justify the judgments we have made regarding the dog named Bodi and the legal actions we have taken to date as a result of those judgments.

Second, I have grave misgivings about the evaluation of the dog named Bodi. If BCAS Director Trice had made the evaluation, most likely I would be less inclined to question what we are doing, but the evaluation seems to be based on a point of law, according to Josh Gruber. There's a world of difference. Points of law and common sense often diverge.

Third, my gut instinct is that some person or persons in a position to do so, or who knew someone in a position to do so, influenced our actions in this case, leading to a more severe penalty and a more hostile series of proceedings than would have occurred otherwise.

For those reasons, I have no objection to being subpoenaed by Mrs. Baracco, in which case I will simply repeat under oath what I have said here. I've made my thinking as clear as I can, but I have no interest in arguing the law with lawyers, especially if they are intent on winning an argument -- as opposed to doing what I consider the right thing.

Rick Caporale
District 8
Beaufort County Council

-----Original Message-----

From: Bensch, Cynthia [mailto:cbensch@bcgov.net]

Sent: Wednesday, March 11, 2015 7:02 PM

To: Gruber, Joshua; Kubic, Gary; Stewart H. Rodman; Rick Caporale

Subject: Court Order

Josh,

There is a lot of conflicting data surrounding this matter, would you please send me a copy of the Court Order or is it a "Notice" they are in violation of? If so was the "Notice" served after the trial where the Baracco's were found not guilty. As County Council representatives we can have our questions answered, and any party can ask for mediation at any time during appeals. The Baracco's asked for Mediation, why haven't we discussed that?

The email Council received yesterday from Mr. Young, the neighbor Ms. Gerber claimed was of great concern to her because of small children is untrue and Affidavits do not support a dangerous animal claim.

This seems more like an exacerbated incident.....that has gotten out of hand, it needs to be settled.

Cynthia Bensch

----- Forwarded Message -----

From: "Bensch, Cynthia" <cbensch@bcgov.net>
To: John Hamilton Gray <johnhamiltongray@gmail.com>
Sent: Wednesday, March 11, 2015 11:21 PM
Subject: Re: Comments by Germer at County Council Meeting

Dear Mr. Gray,

Thank you for your time and commitment to inform County Council of the truth in the issues the Baracco's are dealing with. As you know Ms. Germer misinformed Council in her statements at Mondays meeting by stating that she was gravely concerned about children near the residence of Bodi.

I for one do not appreciate a person using public comments portions of Council meeting to deliberately deceive us about facts and I cannot imagine Ms. Germer was not fully aware that her statements would intentionally mislead us to have great concern about children being in danger of an animal, knowing this was not true. I regret this situation is so out of hand, and has caused such dissension among neighbors. While the lost of a pet is a tragic loss, the circumstances surrounding this case go far deeper than what is reasonable or just.

Everything I know about this situation is a witch hunt, exacerbated with half truths, misuse of the legal process and lack of due process.

I will do all I can to correct this injustice, again my deepest regrets to you and your family for all your frustration and the unnecessary loss of peace and harmony in your neighborhood.

Very kindest regards,

Cynthia Bensch
Cbensch@bcgov.net<<mailto:Cbensch@bcgov.net>>
843-255-2191

RECEIVED

MAY 07 2015

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
SOUTH CAROLINA COURT OF APPEALS

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

BEAUFORT COUNTY,

Respondent,

v.

MARE BARACCO,

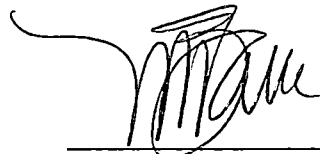
Appellant.

PROOF OF SERVICE

I certify I have served copies of the Appellant's Petition for an Expedited Hearing, for a Motion to Reverse/Dismiss the Magistrate Court Order of April 8, 2015 from a "Rule to Show Cause" on the Respondents by depositing copies in the United States Mail, postage prepaid, May 5, 2015, addressed as follows:

Mary Bass Lohr
Post Office Box 40
Beaufort, South Carolina 29901-0040

Allison Coppage
Joshua Gruber
Post Office Box 1228
Beaufort SC 29901
Attorneys for Respondent.



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

Date: May 5, 2015

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

May 5, 2015

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

RE: Mare Baracco v. Beaufort County, Case No. 2013-CP-07-00918
Appellate Case No.: 2014-000636 (Original Case Number 2012CV0710401536)

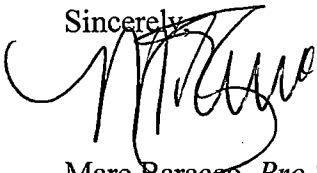
Dear Ms. Kitchings:

Enclosed for filing is an original and six copies for a Petition/Motion for an Expedited Hearing, from a "Rule to Show Cause" April 8, 2015 from the Beaufort County Magistrate Court. I've enclosed the Proof of Service to the Respondents and also a check in the amount for \$25.00 for the filing fee.

I understand my Motion/Reply from March is in review; however, this hearing did occur April 8, 2015 and that is why I have filed the attached.

Please note there is no written "Order" from the Magistrate Court included because one was not provided to me.

Sincerely,



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

RECEIVED

MAY 07 2015

SC Court of Appeals

Other Counsel of Record:
Mary Bass Lohr
Allison Coppage
Joshua Gruber