

MINUTES OF HEARING IN THE MATTER OF MONTAGUE VS. ARKLE (SADIE)

OCTOBER 8, 2011 1:00PM

LAWRENCE MEMORIAL HALL

Board Members Present:

John Wellman, Chair
Nicole Miner, Secretary
Sonia Hawkins



Parties Present:

Susan Sumner Montague, Complainant; 605 Warren Wright Road, Belchertown
Jordan Montague, witness for Complainant
Dawn Prout, witness for Complainant

Key Party Not Present: Linda Arkle, Owner of Sadie; 599 Warren Wright Road, Belchertown

Meeting called to order at 1:04pm. Animal order, Linda Arkle not present. Phone call from Anna Fenton, ACO to Wellman indicating that she could not be present due to health issues with her horse. Wellman indicated to Fenton that Arkle was not present. Fenton instructed Wellman that she would get Arkle's phone number and call back.

Wellman requested a re-cap with Montague of the incidents. Montague indicated that the first incident took place in July 2009 when her husband was bit by Sadie, her neighbor Linda Arkle's Great Dane. Montague stated that Sadie came in to her yard and bit her husband, resulting in a trip to the emergency room for IV antibiotics. Montague stated in the second incident in October 2009, she was walking her Cockapoo, Fletcher, on a leash in her front yard and Sadie ran in to her yard and started attacking Fletcher, and "almost killed him", "threw him in the air", "tore him apart". Montague indicated that the vet was able to save Fletcher, but the attack resulted in months of recuperation. Montague indicated that after this second incident, the State inspector visited the Arkle property and determined that Sadie was not under voice command and therefore was not allowed outside of her fenced area unless on a leash at all times. Montague has also indicated that Sadie enters her yard on a continuous basis, including all of this summer. Montague indicated that the last incident occurred on September 18, 2011 when she, her daughter Jordan Montague, and her friend Dawn Prout were in the backyard. Montague indicated that she had Fletcher on a leash. Montague also indicated that her two other dogs, another Cockapoo (Luke) and her yellow lab were also in the backyard, as well as her mother's elderly Schnauzer. Montague indicated that all of the sudden Sadie just "bolts" into Montague's and begins to attack Fletcher. Montague stated that Luke then ran over to where the dogs were fighting and also got attacked. Montague stated that Prout picked up a hose and began to spray Sadie in the eyes until Sadie retreated. Montague stated that Arkle did not come on to Montague's property, but apologized from her driveway. Montague stated that she told Arkle "this was the last

straw". Montague stated that Fletcher had to go to the vet for a puncture wound and that Luke had teeth marks down his spine that were deep enough to insert the head of a qtip. Montague indicated that when these incidents are happening the owners will not approach Sadie to diffuse the situation. Montague stated she believes the owners of Sadie are too afraid of Sadie to control her. Montague stated that the owner's will try to call Sadie, but it is unsuccessful. Montague indicated that the owners of Sadie will not even come on to her property to retrieve Sadie. Montague stated that last week while she was out of town, her daughter Jordan called her and notified her that Sadie was wandering around in their barn. Montague indicated that Fenton was contacted and Fenton indicated that "this is enough" and that this matter would go to a hearing.

Wellman asked Montague if she was aware of a written formal Restraint Order issued to Arkle and Montague indicated she was not aware of any such order other than verbal warnings to Arkle. Wellman stated that he would have to verify with Fenton if a written order had been issued.

Miner asked Montague if Sadie had access to a fenced in area. Montague indicated that Sadie does have access to a fenced in area which is directly connected to the house. Wellman asked how high the fence was and if she felt Sadie could escape it. Montague indicated that the fence was a "good height" and it's unlikely that Sadie could jump the fence. Miner asked Montague how she thought Sadie was getting into her yard, if it was out a different door that did not lead in to the fenced area. Montague indicated that when Sadie is outside of her fenced area she is usually with her owners unleashed and then runs for Montague's yard. Miner asked Montague if she was aware if Sadie was wearing a shock collar and if the Arkle property had an invisible fence. Miner reiterated that the police report indicated that Arkle claimed Sadie had a shock collar. Montague indicated that she was not aware of a shock collar or a fence and that if Sadie had one "it was obviously not working".

Fenton called back to give Wellman Arkle's home phone number. Wellman called Arkle and left a voicemail indicating that the Board was going to wait twenty additional minutes for her to arrive and that her failure to arrive would directly affect the Board's decision.

Montague indicated that she wanted to make it clear again that Sadie is "never on a leash". Wellman asked Montague how many dogs she has and Montague indicated that she has four dogs including a Rottweiler who is always fenced in.

Wellman read from Fenton's report that Arkle stated that Montague's dog, Gretl, was coming on to the Arkle property. Montague did not state if this was true. She indicated "that's fine, but what does it have to do with Sadie attacking her dogs and her husband?"

Wellman asked Montague if she had proof of medical bills that the previous attacks took place. Montague indicated that she has the vet bills and that her husband could obtain his medical records. Wellman indicated that he may want to see those documents.

Miner indicated that the Board would need to find out from Fenton if the formal restraint order was issued. Wellman indicated that he did not believe that a form order was issued because none of the stringent kennel requirements had been met.

Miner asked Montague if she has had any verbal interaction with Arkle during these incidents. Montague stated that with the second incident Arkle apologized and said she would pay the vet bills. The bills were sent to Arkle's home and believed to have been paid.

Miner asked Montague what she would realistically like to see happen with Sadie. Montague indicated that she wants Sadie removed.

Miner asked if it would be appropriate to contact Fenton to see if the formal order was issued. Miner contacted Fenton and Fenton stated that no written order was issued. Miner asked Fenton if the Board could revoke Ms. Arkle's dog license and Fenton indicated that this could be done, but that she would first recommend a written order.

Miner indicated to Montague that the Board's options are to issue the formal restraint order or revoke Arkle's dog license. Montague indicated that she did not feel a written order would be effective in light of previous verbal orders. Montague indicated that if another attach occurs on her property she will bring a lawsuit against Ms. Arkle and the Town. Miner asked the Board if they are ready to make a decision immediately and the Board agreed. Wellman asked Montague and her witnesses to wait in the hall while the Board discussed.

Wellman indicated he didn't feel the Board had much choice but to revoke the license. He indicated that after three incidents, and verbal warnings each time, should have been sufficient for Arkle to correct the issue. Wellman also indicated the disregard for Arkle not showing to the meeting after it was rescheduled for her convenience on a holiday weekend afternoon. Wellman indicated that the dog should be taken and placed in a human environment where it cannot harm anyone. Miner indicated that she foresees an issue with simultaneously finding a humane environment where Sadie cannot harm other people or animals. Wellman agreed stating that Sadie's behavior is already in place and it would be difficult to break the patterns. Miner asked if the formal restraint order could be altered to require Arkle to install a full sized fence to encompass the entire yard, rather than the standard kennel that the order requires.

Miner indicated that she is comfortable with revoking the license if the Board felt that no other alterations could be made to the written order to prevent Sadie from escaping her yard. Miner also indicated that it bothered her that Arkle did not show to the hearing or give notice that she would be unable to attend or was interested in rescheduling. Miner stated that it was likely an indication that Arkle was not taking this situation seriously and it was likely that she behaved in the same manner when disciplining Sadie. Wellman indicated that he did not believe the order could be altered to meet the requirements of the Board. Miner asked if there were enough members to vote today and Wellman

indicated that there were. Miner asked Hawkins if she was in agreement to revoke the license and she indicated she was. Wellman also indicated that he was in agreement to revoke the license.

Wellman summoned the parties back in to the room and announced the unanimous decision to revoke Ms. Arkle's dog license on Sadie based on the facts that this was the third offense, that Fenton had issued verbal orders on all three occasions, and that Arkle failed to appear to the hearing. Wellman indicated that the Board would notify Fenton to take Sadie.

Montague indicated that she was satisfied with the Board's decision. Montague asked if Arkle were to appeal to the Board if she would be notified. Wellman indicated that he would ask Fenton to notify Montague if an appeal were requested.

Hearing adjourned at 1:58pm.



Oct 17th, 2011

Linda Arkle
599 Waren Wright Road Belchertown MA. 01007

Dear Mrs. Arkle,

On Saturday Oct 8th 2011 at 1:00 pm a hearing was held to address the issue with your great dane "Sadie".

You were notified of this hearing but chose not to attend. A phone call to your residence was made by the ACAB chairman John Wellman with no answer. The board then made their decision with the information at hand.

The board decided to revoke "Sadies" license. According to Town of Belchertown by-laws section 15-15 paragraph c. Upon receiving of this letter you will have 10 days for the placement or humane disposal of the offending dog.

According to Town of Belchertown by-laws section 15-12 paragraph D you the right to appeal the ACABs' decision to the Board of Selectman within 10 days of the postmark on this letter.

John Wellman
ACAB Chairman