

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

CASE NO.: 2020-CV-000019-A-O

PATRICIA CAMINTI,  
Petitioner,

v.

ORANGE COUNTY, FLORIDA,  
Respondent.

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Petition for Writ of Certiorari  
From the Final Order of the Orange County  
Animal Services Classification Committee.

Marcy I. LaHart, Esquire, for Petitioner.

Elaine Marquardt Asad, Esquire,  
for Respondent.

Before WEISS, FALCONE and TYNAN, J.J.

**PER CURIAM.**

Petitioner in this case seeks a writ of certiorari pursuant to Article V, § (5)(b), of the Florida Constitution and Rule 9.100(c), Florida Rules of Appellate Procedure, to review the final order of the Orange County Animal Services Classification Committee (“Committee”) which classified Petitioner’s dog (“King”) as dangerous, pursuant to § 767.11(1), Florida Statutes. Petitioner requests that this Court issue a writ of certiorari reversing the Final Order of the Committee that King be classified as dangerous and refunding any associated penalties and registration fees. The Court has jurisdiction based on § 767.12(4), Fla. Stat. (2021).

## RELEVANT FACTS

On or about May 25, 2020, Mr. Sawyer, an employee of Discount Garage Doors, Inc., approached the front door of Petitioner's home. Mr. Sawyer had been contacted via an app regarding Petitioner's potential interest in obtaining a quote for garage door repair. Mr. Sawyer testified that he called Petitioner twice and after receiving no answer approached Petitioner's front door and either knocked or rang the doorbell. He testified that he heard the dog barking and even heard Petitioner say "go away" but was unsure if Petitioner was speaking to him or the dog. Ultimately, Mr. Duggar opened the door and King slipped by Mr. Duggar and bit Mr. Sawyer on the heel and on both calves. In the immediate aftermath, Mr. Sawyer claimed he was fine and even completed the estimate and provided it to Petitioner. However, Mr. Sawyer testified that after the incident he went to an urgent care facility where he received several stitches on his leg wounds and an initial round of rabies shots as a precaution.

On the same day, Mr. Sawyer notified Orange County Animal Services ("OCAS") regarding the incident. OCAS contacted Mr. Sawyer and he provided a signed statement detailing the day's events. OCAS also contacted Petitioner who signed a Notice of Quarantine and King was taken back to animal services.

On May 28, 2020, OCAS sent a Notice of Initial Determination and Sufficient Cause finding via certified mail to Petitioner which included a copy of the relevant statutory provisions including potential penalties. On June 5, 2020, Petitioner requested a hearing before the Committee. On June 9, 2020, Petitioner was sent notice of a hearing before the Committee, which was set for June 25, 2020 at 6:30pm.

On June 25, 2020, the Committee held a hearing with respect to the initial determination that King was to be classified as dangerous. The hearing included testimony from the victim, Mr. Sawyer, as well as Petitioner and Mr. Duggar. Petitioner was represented by Mr. Duggar who

performed cross-examination. Documentary evidence in the form of photographs of the injuries to Mr. Sawyer was also included. The Committee found that King was to be classified as dangerous pursuant to section 767.11(1), Florida Statutes, for having aggressively bitten, attacked, or endangered a human being on public or private property. A written final order was provided to Petitioner via email and certified mail.

## **DISCUSSION**

### **Standard of Review**

This Court reviews quasi-judicial actions of county boards by writ of certiorari. In this context, the Court's certiorari review involves a three-prong test considering whether (1) due process was afforded, (2) the essential requirements of the law were observed, and (3) the administrative findings and judgment were supported by competent, substantial evidence. *Wiggins v. Fla. Dep't of High. Saf. & Motor Vehs.*, 209 So. 3d 1165, 1170 (Fla. 2017). The departure from the essential requirements of the law necessary for granting a writ of certiorari is something more than "a simple legal error." *See Dep't of High. Saf. & Motor Vehs v. Morrival*, 262 So. 3d 865 (Fla 5th. DCA 2019).

### **State Law Regarding Classification of Dangerous Dogs**

Chapter 767, section 12 of the Florida Statutes outlines the process by which a dog may be classified as dangerous. This section authorizes the dog owner to request a hearing which requires the animal control authority to afford the owner "an opportunity for a hearing prior to making a final determination regarding the classification or penalty." Section 767.12(3) provides little guidance regarding the nature of this hearing beyond establishing relevant timelines and the general direction that "each applicable local governing authority shall establish hearing procedures that conform to this subsection."

## **County Code Regarding Dangerous Dog Classification Hearings**

In accordance with the statute, Orange County has adopted its own process for classification and for hearings regarding dangerous dogs in Article II, Chapter 5 of its Code of Ordinances. Section 5-32(c) provides the dog owner an opportunity to “appeal the initial determination of dangerous or potentially dangerous” by requesting “a hearing before the animal services classification committee to show cause why such dog should not be declared dangerous or potentially dangerous.” This section further describes the process and timeline for requesting such a hearing and mirrors the statute in this respect.

### **Due Process**

The Due Process Clause of the Fourteenth Amendment requires that deprivation of life, liberty, or property be preceded by notice and an opportunity for hearing. *See County of Pasco v. Riehl*, 635 So. 2d 17, 18-19 (Fla. 1994). The Court concludes that Petitioner was provided both sufficient notice and an opportunity to be heard.

First, the Orange County Animals Services Division (“Animal Services”) provided notice of an initial determination that King was to be classified as “Dangerous” with the penalty of euthanasia on May 28, 2020. This notice included the relevant statutory sections detailing the process and potential penalties set out in Sec. 767.12, Fla. Stat. for a dangerous dog classification. A second notice was sent on June 9, 2020 which provided the date and time at which a hearing was scheduled to take place before the Committee. The notice described the proceeding as an opportunity for the Committee to review the completed investigation and initial determination. Petitioner was advised of her right to have an attorney present at the hearing.

At the hearing, Petitioner was given an opportunity to be heard. Petitioner was permitted to testify, as was Mr. Duggar, and the victim. Further, counsel for Petitioner was permitted to

cross examine the witnesses offered by Animal Services and to ask and answer questions of the Committee itself.

Petitioner claims that in spite of these indicia of procedural due process, she was nonetheless deprived of a fundamentally fair proceeding. Petitioner argues that the hearing took place in a “procedural vacuum without published guidelines regarding how the hearing would be conducted, what burden of proof or standard of proof applies, or what minimum findings must be made before a dog is classified as “dangerous.” Another panel of this Court recently determined that this specific claim, as well as Petitioner’s other claims regarding the burden and standard of proof did not amount to a deprivation of due process. *See Pereira v. Orange County, Florida*, Case No. 2021-CA-008441-O (Ninth Judicial Cir. Nov. 2022). Further, the Sixth District Court of Appeal denied a petition seeking review of this Court’s decision on the merits. *Errol Pereira v. Orange County, FL*, Case No. 6D23-1625 (Fla. 6th DCA 2023).

#### **Essential Requirements of the Law**

The second prong of this Court’s certiorari analysis requires a determination of whether the essential requirements of the law were observed. *See Wiggins* 209 So. 3d at 1170. The departure from the essential requirements of the law necessary for granting a writ of certiorari is something more than “a simple legal error.” *See Morriscal*, 262 So. 3d at 865. The Court finds that Respondent did not depart from the essential requirements of the law in this case.

Petitioner argues that Respondent failed to comply with the notice requirements of section 5-32(c), Orange County Code, and section 767.12(3), Fla. Stat., by failing to specify the legal and factual basis of the initial determination which classified King as dangerous, as well as by failing to provide notice of the proposed penalties. However, the initial determination was compliant with both the Orange County Code and the Statute because Respondent included the portions of the

Statute which describes the criteria for a dangerous dog classification as well as the possible penalties.

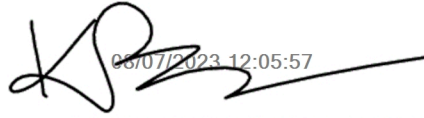
### **Competent, Substantial Evidence**

The final prong of this Court's certiorari analysis requires consideration of whether the administrative findings and judgment were supported by competent, substantial evidence. *See Wiggins*, 209 So. 3d at 1170. Petitioner again argues that the final order does not describe the standard of review applied by the classification committee and lists only the general conclusion that "violation(s) identifiable to the dog do exist." However, the Court notes that the record includes evidence in the form of testimony from Petitioner and the bite victim, as well as photographic and documentary evidence, which supports the Committee's conclusion that King did bite the victim causing injury and was unprovoked.

Petitioner also argues that the Committee lacked competent, substantial evidence that the victim, Mr. Sawyer, was lawfully on Petitioner's property when the bite occurred, and instead should have been considered to be a trespasser. It is true that section 767.12(2) prohibits a dangerous dog classification where the injury was sustained by a person who was unlawfully on the property. However, there was evidence presented to the Committee regarding the nature of Mr. Sawyer's presence on the property and the Committee decided his presence was lawful. The Committee's decision must be upheld if there is any competent, substantial evidence in the record to support it. *See Dorian v. Davis*, 874 So. 2d 661, 663 (Fla. 5th DCA 2004). In this case, Mr. Sawyer was following up with respect to an inquiry for his services and Mr. Duggar opened the door to speak with him. Mr. Sawyer even ultimately provided a quote for the garage door repair services before heading to an urgent care facility. Accordingly, the Committee's decision was based on competent, substantial evidence.

Based on the above findings, the Petition for Writ of Certiorari is hereby **denied**.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida, on this  
\_\_7\_\_ day of \_\_August\_\_, 2023.



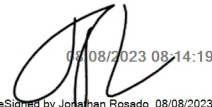
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**KEVIN B. WEISS**  
Presiding Circuit Judge

FALCONE, III and TYNAN, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to:  
**Marcy I. LaHart, Esq.**, Marcy I. LaHart, P.A., 249 SE Tusawilla Road, Micanopy, FL 32667 at [marcy@floridaanimallawyer.com](mailto:marcy@floridaanimallawyer.com); and **Elaine Marquardt Asad, Esq.**, Senior Assistant County Attorney, Orange County Attorney's Office, Orange County Administration Center, 201 S. Rosalind Avenue, Third Floor, P.O. Box 1393, Orlando, FL 32802-1393 at [elaine.asad@ocfl.net](mailto:elaine.asad@ocfl.net) and [Judith.catt@ocfl.net](mailto:Judith.catt@ocfl.net), on this \_\_7\_\_ day of \_\_August\_\_, 2023.



eSigned by Jonathan Rosado 08/08/2023 08:14:19 VYQ3Q-8+

**Judicial Assistant**