

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Candice Cooper,
Appellant-Petitioner,

v.

Monroe County Animal
Management Commission,
Appellee-Respondent

October 29, 2021

Court of Appeals Case No.
21A-MI-362

Appeal from the Monroe Circuit
Court

The Honorable Catherine B.
Stafford, Judge

Trial Court Cause No.
53C04-2012-MI-2442

Crone, Judge.

Case Summary

- [1] After a hearing, the Monroe County Animal Management Commission (the AMC) voided Candice Cooper's ownership of her dog, Clyde, who got out of

her apartment and attacked someone after being declared a vicious animal under the Monroe County Code (MCC). Cooper petitioned for judicial review of the AMC's decision, which the trial court affirmed. Cooper now appeals, arguing that the AMC's decision is invalid. We affirm.

Facts and Procedural History

[2] Cooper lives in an apartment in Ellettsville and owns two dogs, Clyde and Sable. In September 2018, the AMC issued an order declaring Clyde to be “Vicious” and Sable to be “Potentially Dangerous, Level 1” pursuant to the MCC. Appellant’s App. Vol. 2 at 11.¹ The AMC placed the following restrictions on Cooper’s ownership of the dogs: that they “shall, at all times, be kept indoors or in a secured enclosure from which [they] cannot escape,” that they “must be restrained by a substantial leash” while off Cooper’s premises, and that Clyde “must be muzzled” anytime he is off Cooper’s property. *Id.* The AMC also declared Cooper a “Habitual Offender” and ordered that her ownership of Clyde be voided and that he “be turned over to the City’s Animal Care and Control Department” to “be euthanized or adopted, as deemed appropriate by and in the discretion of the Department.” *Id.* Cooper did not appeal this order.²

¹ The factual basis for this order is not in the record before us.

² The AMC hearing minutes suggest that Cooper turned her dogs over to the Department, which ultimately “released [them] back to her[.]” Appellant’s App. Vol. 2 at 24.

[3] In September 2020, one of Cooper's neighbors, William Owens, was leaving his apartment when he heard dogs barking and noticed that Cooper's front door was open. Both dogs exited Cooper's apartment. According to Owens's sworn statement, one dog attacked his left foot, and the other bit his right calf twice. Owens dropped his thermos, and the dogs ran back into the apartment. Owens contacted local law enforcement. Monroe County Animal Management Officer Audrey Windsor responded and took photos of Owens's injuries. The officer also spoke with Cooper, who stated that she had been at the laundromat with her husband, that he had locked the door behind them when they left, and that she did not know how the door got open. The next day, Officer Windsor learned that Clyde's rabies vaccination had expired in January and Sable's had expired in April. The officer returned to the apartment complex and saw Cooper walking Clyde without a muzzle in violation of the 2018 order.

[4] Officer Windsor cited Cooper for three MCC violations regarding Clyde: "Public Nuisance" under MCC Section 440-7, "Rabies vaccination" under MCC Section 440-10, and "At-large dog" under MCC Section 440-12. *Id.* at 12. The officer requested that Cooper be declared a habitual offender pursuant to the MCC. *See* MCC § 440-22 (providing that officer may ask AMC to declare owner of vicious animal a habitual offender if owner "fails to comply with the terms and conditions required by this Chapter and the [AMC] for maintaining such an animal"; declaration authorizes AMC to void owner's ownership of animal). In December 2020, the AMC held a hearing on the matter, at which Cooper appeared in person and by counsel. At the hearing, Cooper admitted

“that the dogs were at large, did attack someone and their rabies vaccinations were lapsed[.]” Appellant’s App. Vol. 2 at 24. The AMC voted to void Cooper’s ownership of Clyde.

- [5] Cooper petitioned for judicial review of the AMC’s decision. In January 2021, the trial court held a hearing at which Cooper appeared pro se and the AMC appeared by counsel. In February 2021, the court issued an order affirming the AMC’s decision.

Discussion and Decision

- [6] Cooper raises several arguments on appeal that fail to pass muster. She first contends that our review is governed by the Administrative Orders and Procedures Act (AOPA), Indiana Code Article 4-21.5. The AMC points out that the AOPA applies only to agency actions and that the AMC, as a commission of the executive body of Monroe County, is not an agency as defined by the AOPA. *See* Ind. Code §§ 4-21.5-5-1 (providing for “judicial review of an agency action”), 4-21.5-1-3 (stating that “agency” for purposes of AOPA does not include “a political subdivision”), 36-1-2-13 (defining “political subdivision” in pertinent part as “municipal corporation”), 36-1-2-10 (defining “municipal corporation” in pertinent part as “unit”), 36-1-2-23 (defining “unit” in pertinent part as “county”). Given the nature of Cooper’s remaining arguments, we need not concern ourselves further with the standard of review.
- [7] Next, Cooper argues that “there was no evidence [she] was negligent such that her property rights in Clyde should be voided.” Appellant’s Br. at 13 (bolding

omitted). Only one of the three ordinances that Cooper was cited for violating includes a “due care” provision that implicates a negligence standard. *See* MCC §§ 440-7(A) (“An animal owner shall exercise due care and control of his or her animal so as to prevent his or her animal from becoming a public nuisance.”), 440-1 (defining “public nuisance” in pertinent part as “any animal that molests passers-by or passing vehicles on public property; attacks persons or other animals”). The other two ordinances do not, and Cooper admitted at the AMC hearing that she violated them. *See* MCC §§ 440-10(A) (“It is unlawful to own or harbor a dog, cat or ferret over the age of three (3) months which is not immunized against rabies.”), 440-12(A) (“An owner shall not allow his dog(s) to travel or roam beyond his premises unless under restraint.”), Appellant’s App. Vol. 2 at 24 (AMC hearing minutes: “[Cooper] admits that the dogs were at large, did attack someone and their rabies vaccinations were lapsed[.]”).³ Consequently, we need not address this argument further.

[8] Finally, Cooper asserts that the AMC’s decision was improperly influenced by an “invalid argument” of an animal control officer, who stated that he was “glad that he [was] not on the [AMC], because when it happens again [i.e., Clyde attacking a person], which it will, there will be quite a law suit.”

³ We reject Cooper’s attempt, unsupported by legal authority, to import language from a dog-restraint statute into MCC Section 440-12. We also note that the AMC was not obligated to believe any self-serving excuses that Cooper offered at the hearing regarding her failure to properly vaccinate and restrain Clyde.

Appellant's Br. at 15 (bolding omitted), Appellant's App. Vol. 2 at 26. Cooper's assertion of improper influence is pure speculation, so therefore we affirm.⁴

[9] Affirmed.

Bailey, J., and Pyle, J., concur.

⁴ The AMC notes that "there was no discussion among the members of the AMC about [the officer's] statement." Appellee's Br. at 18 n.11.