

STATE OF NORTH CAROLINA
MARTIN COUNTY

IN FRONT OF THE COUNTY
COMMISSIONERS

COUNTY OF MARTIN,)
EMPLOYER,)
)
V.)
)
H. "PETE BROCK,")
EMPLOYEE.)
_____)

NOTICE OF APPEAL OF TERMINATION
PURSUANT TO ARTICLE XV, § 7 OF THE
MARTIN COUNTY PERSONNEL MANUAL

NOW COMES the Employee, through his undersigned counsel, and makes this appeal pursuant to Article XV, § 7 of the Martin County Personnel Policy, and shows unto the Martin County Commissioners the following:

1. The Appellant, hereinafter referred to as "the employee" or employee was terminated in a hasty and unfound manner. The Martin County Manager, David Bone, terminated Appellant in a manner as to violate his Constitutional Rights both under the North Carolina and the United States Constitutions. Moreover, the accusations levied at Appellant constitute slander *per se*, and as a result thereof, all involved are not immune, either through the North Carolina and United States Constitutions, nor are they immune under Common Law Doctrines of Qualified or Privileged Immunity.
2. Improper training of the employee by the County, employee only had rudimentary training by a veterinarian and minimal training by the sheriff in the use of firearms. Moreover, Appellant never received any employee evaluations during his employment, was never audited by the Count Manager, nor was ever required to submit proof of compliance to the County Manager and County Commissioners. Additionally, throughout the approximate three years of employment, Appellant exhibited unequalled professionalism with the public, and a sincere desire to improve the treatment of animals through the procurement of grants improving conditions, etc. at the Martin County Animal Shelter.
3. The Animal Control Department was inadequately funded and inadequately categorized by the County in that it should be under the direction and control of the Martin County Sheriff as in other counties.
4. The County's chief witness, Kevin Beck, hereinafter referred to as "Beck," is not credible in any manner. Beck is a convicted felon after pleading guilty to possession of a Class II Controlled Substance under Chapter 95 of the North Carolina General Statutes.

Moreover, Beck has been convicted of another act of moral turpitude, possession of drug paraphernalia as well as being convicted of a concealed weapon violation. Beck was hired for the Animal Control Officer position and the County Manager as well as the County Commissioners had full knowledge either actual or constructive of Beck's criminal record as well as the fact Beck lacks the basic education to even apply for the job he holds consisting of holding a high school diploma or basic GED.

5. Employee's Procedural and Substantive Due Process Rights were violated during the investigation and subsequent termination.
6. The subsequent discussion will defend and explain Appellant's position and will confirm the following: (a) Kevin Beck is not a credible witness, employee or spokesperson for Martin County; (b) David Bone is to be terminated immediately as County manager; (c) H. Pete Brock is to be reinstated immediately; (d) As well as other matters including the abovementioned paragraphs to be proven.

DISCUSSION

Employment History

Appellant's employment history and his professionalism has never been in question until Beck's arrival. Brock received minimal training in animal disposal and the use of weapons. In fact, upon speaking to a world class veterinarian in Pennsylvania, she was appalled at the level of training any animal control officer receives in North Carolina and basically stated "what is wrong with you people down there?" "The officer should have shot the dog with his pistol." Brock received inspection after inspection by the State and each any every time his record keeping ability was never questioned, nor was the state of medicine storage an issue.

The medicines were stored properly, counsel even witnessed this after he received a citation for the At-Large Ordinance in the Town of Williamston. Basically, both the Town and County Ordinances are identical and upon my notification of the violation, counsel dealt with Appellant and Mr. Ben Hardison. Counsel followed the proper protocol and when he was scheduled to pick up the dog, proper change could not be given due to the fact Mr. Hardison did not have access to Brock's desk, both where the medications and monies were kept under lock and key. It must be noted that Beck's desk is keyed identical to that of Appellant's and Beck constantly had access to the desk. Moreover, the accusations of medications being left out are quite convenient for Beck since each and every accusation took place with Appellant not present with the exception of the alleged destruction of the vicious and dangerous pit bull dog. No lab tests were performed of the alleged substances and now it is clearly too late for that scenario due to chain of custody issues. Beck never received training in euthanasia, nor is he a chemist or pharmacist, therefore his rendition of what was in the syringes as well as anyone's rendition is invalid and not credible.

Brock was not present when the alleged wrongdoings with the cats took place, the one allegedly found in the freezer as well as the one in the trap. Brock denies knowledge of the cat in the freezer, Beck's rendition clearly presents the picture he led the State Officer to the freezer when Brock was not present. Furthermore, the cat in the cage was brought to the facility when Brock was not present by Beck and Beck never called Brock concerning what to do with the cat. Brock discovered the above after the fact and again, it is hard to explain something you know nothing about. Brock never told Beck to kill any animal due to the fact Beck was not trained to kill any animal, plain and simple. Credibility comes into place, one without a record or one who is a convicted felon of an act of moral turpitude.

Destruction Of The Vicious And Dangerous Pit Bull Dog

The dog in question is the second dog destroyed by Martin County owned by the same couple. The first dog was left at the animal shelter in excess of sixty days before it was destroyed, the couple never followed the proper protocol to retrieve the animal as in the second animal. The second pit bull was deemed dangerous and the couple moved the dog about the County as a nut and shell game before it was found. Thereafter, the dog was held at the shelter for approximately thirty days and two extensions were given to the couple to comply with the Ordinance. A written order was given to Brock to destroy the animal and burn its body by the County Attorney, J. Melvin Bowen, and this was confirmed orally by the County Manager. Upon the process of destroying the animal, Brock followed proper protocol (and using Euthasol, there is only one proper protocol under AVMA guidelines concerning injecting the solution in internal organs) by shooting the animal with a sedative and then using Euthasol. Beck was not present when the solutions were prepared, however he was in the vicinity when Brock legally destroyed the animal. Again, credibility is at issue, one with no criminal record versus a convicted felon with an act of moral turpitude.

Protocol

According to NCAC Chapter 52, Subchapter 52J, Section .0210, proper methods of euthanasia consists of any method of euthanasia approved by the American Veterinary Medical Association (AVMA), the Humane Society of the United States (HSUS), or the American Humane Society (AHA). The HSUS does not sanction euthanasia and the AHA has adopted the protocol of AVMA so the proper protocol lies within the AVMA guidelines. According to pages 45 and 46 of those guidelines, only when the animal is killed by injecting internal organs with Euthasol is sedation necessary. In the instant case, Brock went above and beyond his obligations by sedating the dog prior to destruction. Clearly, Beck does not adhere to this doctrine, in fact he is one of the only animal control officers who are clearly afraid of his job. After Brock's dismissal, a call was made about a stray dog at a business. Upon Beck's arrival, he would exit the vehicle and the complainant had to procure the animal. The animal wagged it's tail and sat beside the worker patiently waiting for Beck to exit his vehicle.

What If Protocol Was Not Followed, Does This Rise To Level Of Criminal Acts?

Even if protocol was not followed, as long as Chapter 14-360 was followed no criminal act has taken place. Brock is accused of a Class H Felony, §14-360, Subsection b, in that the Defendant maliciously killed the vicious and dangerous pit bull. That is the act of killing the animal was illegal, malicious and cruel in the manner in which the dog was disposed. Would someone please inform counsel the NC State Legislature has moved from Raleigh to Williamston? Subsection c of the Statue clearly lists exceptions to cruelty to animals in that Subsection c1 clearly exempts the lawful destruction of any animal for the purposes of protecting the public, other animals, property or the public health. Brock was given written permission by the County attorney as well as told by the County Manager to destroy the animal. One cannot bifurcate the Statute and selectively apply and ignore what potions they choose. Ironically, Brock's supporting case on point is a Jamesville, Martin County Case. In State v. Tweedy, 115 NC 704, 20 S.E. 183 (1894), Jamesville had an Ordinance which precluded people from allowing their hogs to roam free in the Town Limits. A Mr. Tweedy killed a hog and was charged with cruelty to animals. The lower Courts convicted and /or upheld the conviction, however, the North Carolina Supreme Court overturned the conviction citing "for there to be cruelty to animals, two things must take place; (1) the act must be willful (or in this case malicious), and (2) the act must be unlawful." Brock was given permission by the County manager and County Attorney. Hypothetically, if Brock shot the dog with his pistol or even dragged the animal behind his vehicle until death, no crime took place. This is plain and simple!

What Is Euthasol And Its Various Uses?

Euthasol is the band name of a drug Pentobarbital used in killing animals and humans. It is classified as an anesthetic where it is used in this capacity as an anaesthetic. The definition of anaesthesia is "a temporary state consisting of unconsciousness, loss of memory, lack of **pain**, and muscle relaxation." The Euthasol manufacturers's information sheet describes the drug "For use in dogs for humane, painless, and rapid euthanasia." Upon injection, Euthasol causes the brain to die and then cardiovascular collapse. It is a quick a painless method to kill animals and humans. Again pursuant to AVMA guidelines, only when it is injected in internal organs to cause death does one need to sedate the dog. In Europe, it is combined with syrup and ethanol to be drank in patient suicides. In Oregon, it is also taken orally for physician-assisted suicide. Pursuant to the university of Colorado Denver/Anschutz Medical Campus, Veterinary Anesthetic and Analgesic Formulary, Euthasol's advantages are the "[r]apid anesthetic onset," Euthasol also "contains the active ingredient phenytoin sodium, which is an antiepileptic drug which suppresses brain activity." This document also describes the fact once the drug takes effect and it appears the animal is in some type of distress, i.e., gasping, etc., the animal is already brain dead and any subsequent physical activity is the painless after effects of the death process. As a result of the foregoing, Beck's assertions are without basis, the individual who gave her two cents about how much agony the dog was in is also not credible. Both individual's rendition are a mere sham, similar to the County's position of bifurcation of a NC Statute. Bottom line, even if the Appellant used Euthasol alone (which he did not), it was an effective legal destruction of an animal that clearly did not suffer. Counsel is not a dog whisperer or a dog psychologist as is Beck and the State Inspector, but he is aware that is was a stressful situation for both Brock and

the dog in question. The dog had been abandoned by its owners, was in an environment that most animals seem to be uncomfortable and aware they are not at home. A prime example would be when one takes their animal to the vet's office. Again, Brock acted within the guidelines however you look at the matter.

WHEREFORE, the Defendant by and through his undersigned counsel prays unto the County Manager for the following relief:

1. *In toto* reinstatement of his job, benefits, pay and responsibilities.
2. The immediate termination of Kelvin Beck, a convicted felon allowed to carry a weapon by the County.
3. The immediate termination of David Bone for gross incompetence in hiring and managing the affairs of the County.
4. The *en banc* resignation of the Martin County Board of Commissioners for their gross mishandling of this matter as well as other matters pending.
5. Any other relief deemed just and proper.

Respectfully submitted, this the _____ day of _____, 2015
David E. Gurganus
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CC:
NAACP
Southern Poverty Law Center
United States Attorney Office

STATE OF NORTH CAROLINA

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MARTIN COUNTY

COUNTY OF MARTIN,)
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CERTIFICATE OF SERVICE PURSUANT TO
ARTICLE XVIII, § 1, STEP 1,
PARAGRAPHS A-C.

PURSUANT to Article XVIII, § 1, Step 1, Paragraphs A-C, the employee herein referred to as “the Appellant” or “Appellant,” hereby serves his Notice Of Appeal pursuant to the above captioned Article and Section of The Martin County PERSONNEL Policy. Said Notice Of Appeal is hereby served Via hand Delivery to:

Martin County Board of Commissioners, Chairman/woman
Martin County Manager
Martin County Governmental Center
Williamston, NC 27892

Respectfully submitted, this the

day of _____, 2015

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