



Texas State Bar Animal Law Institute 2023

How 3 Collies Turned into 150+ Collies: A Legal Saga Involving an Ownership Dispute, Animal Cruelty, Federal Bankruptcy, a Federal Animal Seizure, and State/Federal Crimes

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7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLEYER@YAHOO.COM



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How 3 Collies Turned into 150+ Collies: A Legal Saga Involving an Ownership Dispute, Animal Cruelty, Federal Bankruptcy, a Federal Animal Seizure, and State/Federal Crimes

Introduction.

This case started in 2013, when Kara Kaufman, a then twenty-two year old mother of two small children had to place her three Collies, two adult dogs and one puppy. She was contacted by a woman who purported to be a Collie fancier who had expertise in the breed. The woman used the name “Sheila Kopman” to acquire the three dogs, but that was a fake name fabricated to get access to the dogs.

Why? As it turns out, the woman was really Dr. Elaine Kmiec, D.O., an eye doctor who resided in Tomball, Texas. Despite being advance degree educated and employed as an optometrist for many years, Kmiec was also an animal hoarder or collector. She fancied Collies, mostly of the smooth coat variety. In 2007, Kmiec was investigated by the Houston SPCA for animal cruelty and she surrendered 51 Collies to that organization. The HSPCA left her with twenty (20) dogs.

Kmiec was known in the Collie community because of this investigation and ultimate surrender of 51 dogs. As a result, Kmiec would use fake names to acquire Collies and did so to induce Kara Kaufman to sell her three Collies. However, Kara figured out that she had been duped by Kmiec and filed suit in the Harris County Justice Courts to get her three Collies back. She tried to buy them back unsuccessfully. What unfolds as a result of that case is a mind boggling journey through both state and federal courts for both civil and criminal cases. The documents attached document this legal saga but in no way represents all of the many filings.



1.

Plaintiff's Amended Petition: *Kara Kaufman v. Elaine Kmiec*, Cause No CV51C0142551, Precinct 5, Place 1, Harris County Justice Courts.

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



CAUSE NO. CV51C0142551

KARA KAUFMAN
Plaintiff,

vs.

ELAINE KMIEC AKA SHEILA
KOPMAN,
Defendant.

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IN THE JUSTICE COURT OF

HARRIS COUNTY, TEXAS

PRECINCT 5, PLACE 1

PLAINTIFF’S AMENDED ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW KARA KAUFMAN (“Kara”), Plaintiff herein, who makes and files her Amended Original Petition, complaining of and about ELAINE KMIEC AKA SHEILA KOPMAN (“Sheila”),referred to as “Defendant” herein, and would show unto the Court the following:

I.

This is a suit for the return of property. The value of the property, three Collie Dogs, is \$4000.00, but Plaintiff seeks the return of the three dogs.

II.

PARTIES

2.1 Plaintiff is a resident of Houston, Harris County, Texas.

2.2 Defendant has previously answered this suit and has been served with a copy of the Amended Petition by Certified Mail and regular mail.

III.
Venue and Jurisdiction

Because all or a substantial part of the events giving rise to Plaintiff's claims occurred in Harris County, Texas, venue is proper in Harris County pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a)(1). This Court has jurisdiction of this matter because Plaintiff's damages are within the jurisdictional limits of this Court.

IV. Facts.

Plaintiff entered into a contract for the sale of three Collies with Defendant on July 28, 2013. Defendant falsely represented herself to be Sheila Kopman. In fact, the true identity of Defendant is Elaine Kmiec who has been the subject of an animal cruelty seizure of over 50 Collies that were in deplorable condition so she relinquished her ownership rights in these dogs. Plaintiff would not have entered into a contract with Defendant who has over 50 Collies involved in a cruelty case had she not misrepresented her name and identity.

V.
Breach of Contract

The Defendant entered into a contract for the purchase of Collie puppies and adult Collies under false pretenses and false representations, made with the intent to induce action by Plaintiff, which action was taken by Plaintiff all to her detriment, as evidenced by exhibit "A" hereto. The essential term of said agreement was that Plaintiff was selling the Collies to one person and not the secret identity hidden from Plaintiff as a subterfuge

entered into by Defendant. The contract allows Plaintiff to rescind the agreement and regain possession of the Collie dogs in the event Plaintiff had reason to fear for the safety and welfare of the Collies sold by her to Defendant. Plaintiff has such reasonable fear based on the prior investigation of neglect and/or cruelty against Defendant resulting in Defendant surrendering possession of 50 Collie dogs formerly owned by her.

Defendant has failed and refused to comply with said written contract, for which Plaintiff has been forced to sue in order to get all 3 Collie's back in her possession, as well as all court costs and attorney's fees totaling about \$400.00. Defendants conduct further constituted fraud in the inducement to contract for the sale of the Collies, and which contract Plaintiff requests that the Court rescind same as a consequence of said fraud in the inducement and order the immediate return of the subject Collies to her.

VI. Fraud.

Defendant made a material misrepresentation about her identity which was wholly false. This misrepresentation was material because if Plaintiff had known the true identity of the purchaser of her dogs to be a person who had lost at least 50 Collies in a cruelty seizure, Plaintiff would have never sold her the dogs. Defendant misrepresented her identity to hide the fact that she has been the subject of a huge cruelty seizure. Plaintiff acted in reliance on Defendant's misrepresentation about her identity and sold her three Collies. Plaintiff has been damaged as a result of the fraud by Defendant in having to seek the return of the dogs to get them out of harm's way.

Alternatively, the facts stated above constitute a cause of action for common law fraud and fraud in the inducement to contract under the law of the State of Texas, but for which fraud, Plaintiff would not have entered into an agreement with Defendant, which is the reason Defendant used an alias when entering into the contract with Plaintiff.

Defendant represented to Plaintiff that she was one person when in fact she was another person who was previously the subject of claims of abuse and neglect of over 50 Collie dogs, resulting in her surrendering same. Defendant's representations were material to Plaintiff because she relied on them in her decision to enter into the agreement for the sale of her Collie dogs. Defendant's conduct amounted to false representations to Plaintiff, as she entered into the written contract with Defendant for the sale of her Collie dogs. Defendant made the false representations intentionally and/or recklessly, as a positive assertion and without knowledge of its truth and whether Defendant could actually comply with the agreement. Plaintiff relied on these representations and signed the subject contract. Defendant's false representations directly and proximately caused financial and emotional damages to Plaintiff, for which she seeks damages within the jurisdictional limits of this Court. These actions directly and proximately caused Plaintiff's damages complained of herein. Plaintiff also seeks punitive damages in connection herewith, as allowed by law.

VII. Damages

Based on the above and foregoing actionable acts of commission and omissions, Plaintiff

seeks to recover the following relief and damages:

1. Immediate return of said 3 Collies and all AKC, microchip, and vet paperwork that was given to defendant when they were purchased.
2. Rescission of the agreement, together with payment of all attorney fees and costs associated herewith, together with costs and expenses in the prosecution of this case.
3. Any medical expenses associated with the treatment of any injuries to the Collie dogs, which was caused as a result of Defendant's conduct;

Respectfully submitted,

KARA KAUFMAN
3934 Shadow Trace Cir.
Houston, Texas 77082
PLAINTIFF, PRO SE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above pleading was served on Defendant pursuant to the Texas Rules of Civil Procedure, on September ____, 2013.

KARA KAUFMAN



2.

**Brief in Civil Ownership Case: Fraud, Rescission,
Damages. Kara Kaufman v. Elaine Kmiec, Cause No
CV51C0142551, Precinct 5, Place 1, Harris County
Justice Courts.**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



CAUSE NO. CV51C0142551

KARA KAUFMAN

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IN THE JUSTICE COURT

ELAINE KMIEC a/k/a
SHEILA KOPMAN

HARRIS COUNTY,
TEXAS

PRECINCT 5, PLACE 1

PLAINTIFF’S BRIEF OF THE LAW

I. FRAUD.

Fraud: Identity of the Buyer is a Crucial Issue in the Contract for the Dogs.

Fraud is the intentional misrepresentation of an important issue of the contract. The presence of fraud in a contractual proceeding makes the contract voidable by the party upon whom the fraud was perpetrated.

In the present case, the Buyer, Defendant herein, fraudulently misrepresented her identity to induce Plaintiff to sell her the dogs. Defendant misrepresented her true identity because she has been involved in a massive cruelty surrender of over fifty (50) Collies to the Houston SPCA relative to an animal cruelty investigation conducted by them regarding Defendant. The identity of Defendant in this case is a crucial issue in the contract for the dogs and went to the very essence of the contract.

Elements of Fraud as Provided by the Texas Law:

The elements of a cause of action for fraud are:

- (1) that a material representation was made;
- (2) the representation was false;
- (3) when the representation was made, the speaker knew it was false or made it recklessly without any knowledge of the truth and as a positive assertion;
- (4) the speaker made the representation with the intent that the other party should act upon it;
- (5) the party acted in reliance on the representation; and
- (6) the party thereby suffered injury."

Johnson v. Brewer & Pritchard, P.C., 73 S.W.3d 193, 211; 45 Tex. S.Ct. J. 470, (Tex. 2002); *In re FirstMerit Bank, N.A.*, 52 S.W.3d 749, 758 (Tex.2001); *Formosa Plastics Corp. v. Presidio Engrs. & Contractors, Inc.*, 960 S.W.2d 41, 47 (Tex.1998).

II. RECISSION.

Rescission: Return of the Dogs to Plaintiff.

In most contract disputes, a court puts the non-breaching party in the position he or she would have been in if the contract had not been breached. However, there are times when the court may place the party in the position he or she was in before the contract was executed. This remedy is known as rescission. Rescission may be selected in cases in which one party intentionally misrepresents a material fact, for example.

In the present case, rescission would put the Seller, Plaintiff herein, back to the position she was in before the contract was executed which would necessitate the return of the three Collies in question back to her. Accordingly, Plaintiff has sued for the return of the dogs.

Elements of Rescission as Provided by Texas Law:

Rescission is an equitable remedy that extinguishes legally valid contracts that must be set aside because of fraud, mistake, or other reasons in order to avoid unjust enrichment. **Martin v. Cadle Co.**, 133 S.W.3d 897, 903 (Tex. App.-Dallas 2004, pet. denied); **Country Cupboard, Inc. v. Texstar Corp.**, 570 S.W.2d 70, 73-74; (Tex. Civ. App.-Dallas 1978, writ ref'd n.r.e.).

A trial court may order unilateral rescission of a contract if a party demonstrates a breach in a material part of the contract. **Costley v. State Farm Fire & Cas. Co.**, 894 S.W.2d 380, 386 (Tex. App.-Amarillo 1994, writ denied); **Humphrey v. Camelot Ret. Cmty.**, 893 S.W.2d 55, 59; (Tex. App.-Corpus Christi 1994, no writ); **Ennis v. Interstate Distribs., Inc.**, 598 S.W.2d 903, 906 (Tex. Civ. App. -Dallas 1980, no writ).

Even partial breaches are sufficient to warrant rescission when the breach goes to the essence of the contract.

Ennis, 598 S.W.2d at 906; **Atkins v. Beasley**, 544 S.W.2d 505, 507 (Tex. Civ. App.-Waco 1976, no writ).

III. EXEMPLARY DAMAGES.

The law recognizes the egregious nature of fraud and provides for the award of exemplary damages in those cases. In fact, the Texas Legislature has provided for the award of exemplary damages in cases of fraud cases by statute. Texas case law similarly provides for exemplary damages in fraud cases as evidenced in “Texas Pattern Jury Charges.”

In the present case, Defendant committed fraud by misrepresenting her identity. She assumed a fake name and used a false driver’s license number when she signed the contract with Plaintiff to buy a dog and when she entered into an oral contract for two more dogs. When confronted by Plaintiff and her brother in their effort to get the dogs back based on Defendant misrepresenting her identity, Defendant again lied about her true identity claiming to be “Sheila Kopman.” Defendant went so far as to say that she was “Sheila Kopman” and worked for Elaine Kmiec in an effort to explain why a car in her driveway had a license number that was registered to Elaine Kmiec, not “Sheila Kopman,” This elaborate scheme perpetuated a fraud on Plaintiff and merits the award of exemplary damages as a penalty for such outrageous acts.

Exemplary Damages for Fraud as Provided by Texas Law.

"Exemplary damages' means any damages awarded as a penalty or by way of punishment but not for compensatory purposes." Tex. Civ. Prac. & Rem. Code Ann. § 41.001(5) (West 2008). Under section 41.003(a) of the Texas Civil Practice and Remedies Code, exemplary damages may generally be awarded "only if the claimant proves by clear and convincing evidence that the harm with respect to which the claimant seeks recovery of exemplary damages results from (1) fraud, (2) malice, or (3) gross negligence." *Id.* § 41.003(a).

Henning v. OneWest Bank FSB, 05-12-00078-CV (TXCA5), July 2, 2013.

Section 41.003 of the Texas Civil Practice and Remedies Code allows for the award of exemplary damages if the claimant proves by clear and convincing evidence that the harm with respect to which he seeks recovery resulted from, among other things, fraud. TEX. CIV. PRAC. & REM.CODE ANN. § 41.003(a)(1) (Vernon 2008). " ' Clear and convincing' means the measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be

established." *Id.* § 41.001(2) (Vernon 2008). **JSC Neftegas-Impex v. Citibank, N.A., 365 S.W.3d 387 (Tex.App.-Houston [1 Dist.] 2011, pet. denied)**

Texas Pattern Jury Charges

Fraud, as well as malice, is a ground for recovery of exemplary damages. Tex. Civ. Prac. & Rem. Code § 41.003(a)(1).

In an appropriate case, substitute “fraud” for “malice” in the question proper and insert a definition for “fraud” conforming to the pleadings and evidence of the case, using the definitions for fraud found at PJC 105.2–.11 as a guide.

QUESTION _____

Do you find by clear and convincing evidence that the harm to *Paul Payne* resulted from *fraud*?

“Clear and convincing evidence” means the measure or degree of proof that produces a firm belief or conviction of the truth of the allegations sought to be established.



3.

**Judgment: Kara Kaufman v. Elaine Kmiec, Cause No
CV51C0142551, Precinct 5, Place 1, Harris County
Justice Courts.**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM





JUDGE RUSS RIDGWAY

JUSTICE OF THE PEACE, HARRIS COUNTY, TEXAS
PRECINCT FIVE, PLACE ONE

Case Number: CV51C0142551

CIVIL

--JUDGMENT-- w/ Counterclaim

PLAINTIFF: KARA KAUFMAN

DEFENDANT: ELAINE KMIEC aka SHEILA KOPMAN

09/24/13 - PL/CDF present w/ atty. DF/CPL present. At Trial, Judgment for PL, KARA KAUFMAN, against DF, ELAINE KMIEC aka SHEILA KOPMAN, for the return of 3 dogs (1 male microchip #098-315-618, 1 female microchip #016-894-525 and 1 female puppy) within 11 days (by October 5, 2013) or \$4000.00. Additionally, Judgment for PL for \$2700.00 Attorney Fees + Court Costs + Post Judgment Interest at 5% per annum. Counter PL take nothing on Counterclaim from Counter DF. Court invokes Original Justice court rules (which were in effect prior to 09/01/13). Appeal to be filed within 10 days of Judgment, if either party chooses to Appeal. Signed 09/24/13 [Signature]

09-30-13 - Judgment entered Nunc Pro Tunc PL present w/ atty. DF not present. PL's Motion to Reform Judgment Granted. In addition to order signed 9-30-13, Court also Orders that Counter Plaintiff take nothing on Counterclaim. Court also invokes Original Justice Court Rules (which were in effect prior to 09-01-13). Appeal to be filed within 10 days of Judgment, if either party chooses to appeal. Signed 9-30-13 [Signature]. Judgment for PL for Atty Fees of \$2700 + Court Costs. [Signature]

CVJDG51 Page 1 of 1

***** THE STATE OF TEXAS § COUNTY OF HARRIS §

The above is a full, true and correct photocopy of the original record filed in Justice Court, Harris County, Texas, Precinct Five, Place One. I hereby certify this on 4/16/2014.



Honorable Russ Ridgway Justice of the Peace Harris County, Texas Precinct Five, Place One

By [Signature] JOANN HINOJOSA Clerk of the Court



4.

**Writ of Execution and Return: Kara Kaufman v.
Elaine Kmiec, Cause No CV51C0142551, Precinct 5,
Place 1, Harris County Justice Courts.**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



THE STATE OF TEXAS
WRIT OF EXECUTION-DELIVER PROPERTY

TO ANY SHERIFF OR CONSTABLE WITHIN THE STATE OF TEXAS:

Cause No. CV51C0142551
Date of Judgment: 09/30/13

JUSTICE COURT, Precinct 5, Place 1
Harris County, Texas



Judgment in Favor of: **KARA KAUFMAN**
3934 SHADOW TRACE CIR
HOUSTON, TX 77082-
(832) 524-7832

Judgment Against: **ELAINE KMIEC AKA SHEILA KOPMAN**
14234 ALICE RD
TOMBALL, TX 77377-

Original Amount of Judgment:

Amount:	RETURN OF THE PROPERTY OR \$4,000.00
Prejudgment Interest:	\$
Attorney's Fees:	\$2700.00
Costs:	\$ 34.00
Post-Judgment Interest:	5% per annum

Amount Actually Due at Time of Issuance of this Writ:

Amount:	RETURN OF THE PROPERTY OR \$4,000.00
Prejudgment Interest:	\$
Attorney's Fees:	\$2700.00
Costs:	\$ 164.00
Post-Judgment Interest:	5% per annum

Additional terms: The recovery of the following described Property and delivery of the property into the possession of:
3 DOGS (1 MALE MICROCHIP #098-315-618, 1 FEMALE MICROCHIP #016-894-525 AND 1 FEMALE PUPPY)

Value of Property: **\$4,000.00**

You are commanded to seize and recover the above described property. If it is found in your county, deliver the property to: **KARA KAUFMAN** and in case a delivery of the property cannot be had, you are to levy and collect the value of the property out of any property of the judgment debtor subject to execution by law.

You shall execute this writ according to its terms, and make the costs which have been adjudged against the defendant in execution and further costs of executing this Writ.

You are required to return this Writ within ninety (90) days.

Issued on: 11/11/2013

Russ Ridgway
JUDGE RUSS RIDGWAY 11-12-13
Justice of the Peace, Precinct 5, Place 1

Return

Received this Writ on _____, at _____ .M.

Executed on _____, at _____ .M., at _____

_____ in _____ County, Texas by _____

Signed on: _____

RECEIVED
RON HICKMAN
CONSTABLE, PCT 4
HARRIS CO, TEXAS

Signature _____
Name: _____

13 DEC 19 AM 8:37

FILED
JUDGE RUSS RIDGWAY
PRECINCT 5, PLACE 1
HARRIS COUNTY, TEXAS

IN THE JUSTICE COURT, PRECINCT 5, PLACE 1
CASE NUMBER: CV51C0142551

10/17/2013

KARA KAUFMAN, ELAINE A KMIEC
Plaintiff(s)

vs.

ELAINE KMIEC AKA SHEILA KOPMAN, KARA KAUFMAN
Defendant(s)

BILL OF COSTS

Justice Court's Costs		Constable's Costs	
Citation and Copy	\$ 25.00	Executing Citation	\$
Civil Legal Service Fee	\$ 6.00	Executing Garnishment	\$
Alternative Dispute Resolution	\$ 3.00	Executing Sequestration	\$
Writ of Attachment	\$	Executing Precept	\$
Writ of Garnishment	\$	Executing Execution	\$125.00
Writ of Sequestration	\$	Executing Alias Execution	\$
Precept	\$	Executing Pluries Execution	\$
Execution	\$ 5.00	Executing Subpoenas	\$
Alias Execution	\$	Executing Attachment	\$
Pluries Execution	\$	Executing Distress Warrant	\$
Docketing	\$		
Abstract	\$		
Electronic Filing System State	\$		
Total	\$ 39.00	Total	\$125.00
Credits	\$	Total Costs	\$164.00



RON HICKMAN, CONSTABLE

HARRIS COUNTY, PRECINCT 4

11/19/13

ELAINE KMIEC
AKA SHEILA KOPMAN
14234 ALICE RD
TOMBALL, TX 77377

Attention: ELAINE KMIEC AKA SHEILA KOPMAN

You are hereby notified to phone 281-401-6360 ***immediately*** to discuss the payment of a judgment. A Writ of Execution has been issued in the below listed cause of action.

Cause Number **CV51C0142551**

KARA KAUFMAN VS. ELAINE KMIEC AKA SHEILA KOPMAN

Demand is hereby made for payment of the judgment amount and if applicable, interest, court costs, attorney fees, and all other fees connected with the collection ordered by the writ.

If you do not pay this judgment immediately, we will proceed to collect this judgment by seizing any non-exempt property belonging to you according to law. If you cannot pay this judgment, you have the right to designate property to be levied upon to satisfy the judgment, if payment is not forthcoming.

This notice is being sent to you as a courtesy with the intention of saving you time and additional cost. All payments must be made through this office to assure proper credit towards the judgment.

Please contact the Writs Division at 281-401-6360 for assistance in resolving this court order.

D. OWEN

Deputy Constable
Ron Hickman, Constable
Precinct No. 4, Harris County

Main Office:
6831 Cypresswood Drive
Spring, Texas 77379
(281) 401-6205 Office
(281) 401-6287 Facsimile

Humble Office:
7900 Will Clayton Pkwy.
Humble, Texas 77338
(281) 446-1196 Office
(281) 446-0691 Facsimile

Training & Investigations:
330 Meadowfern
Houston, Texas 77067
(281) 401-6225 Office
(281) 401-6344 Facsimile



Office of
Ron Hickman, Constable
Harris County Precinct 4
6831 Cypresswood Drive
Spring Texas 77379
281-376-3472

LEVY AUTHORIZATION

On this, the 17th day of DECEMBER 200 2013

I, KARA KAUFMAN
(Please Print)

Agent for PRO SE

Do hereby direct Deputy Constable D. OWEN

To levy on the items that are designated by me prior to seizure and listed on the inventory sheet(s) provided by the moving and storage company. This is being directed in an effort to satisfy the judgment for the plaintiff(s).

CAUSE NO. CV51C0142551

KARA KAUFMAN

VS.

ELAINE KMIEC AKA SHEILA KOPMAN

17th Day of DECEMBER 200 2013 at 07:00 (am) / pm
(Date Signed)

Kara Kaufman
Plaintiff / Attorney / Agent, Signature

Constable's Writ Return Cause CV51C0142551

In the case of KARA KAUFMAN vs ELAINE KMIEC AKA SHEILA KOPMAN a writ of EXECUTION
 was issued by the JP5-1 court of HARRIS County and came to hand on the 19TH day of NOVEMBER, 2013
 at 08:15 (am) pm by making the demand on the Defendant(s) (see listed below) for the full amount of the Judgment and all cost within
 this writ. (if applicable)

Service Information

Name	Date	Time	Address of Service
ELAINE KMIEC AKA SHEILA KOPMAN	11/19/13		DEMAND LETTER(S) SENT
	12/17/13	0730	DEMAND MADE

Service Remarks

Date	Time	Remarks
12/17/13	0730	I WENT TO WRIT ADDRESS WITH PLAINTIFF WHERE I MADE DEMAND ON DEFENDANT WHO STATED THAT SHE HAS SOLD THE DOGS LISTED ON THE WRIT TO SHEILA KOPMAN WHOM SHE DOES NOT KNOW HOW TO CONTACT.
		FURTHER, DEFENDANT STATED THAT SHE HAS NO NON-EXEMPT ASSETS AND CAN NOT PAY JUDGMENT. DEFENDANT'S RESIDENCE WAS BARRICADED AND WAS LOCKED WITH CHAINS AND PADLOCKS. DEFENDANT CAME TO A LOCKED FENCE AND SPOKE WITH ME AND WOULD NOT ALLOW ME TO LOOK FOR THE DOGS.
12/17/13	0937	RETURN WRIT TO COURT AS DIRECTED BY PLAINTIFF SO THAT ADDITIONAL PROCESS CAN BE SOUGHT.

Fee: 125.00 (PAID)

by Deputy D. OWEN

Printed

Deputy Signature 

13 DEC 19 AM 8:37

Attempts: 3

FILED
 JUDGE RUSS RIDGWAY
 HARRIS COUNTY, TEXAS
 PRECINCT 5, PLACE 1

Ron Hickman, Constable
Harris County Precinct #4
6831 Cypresswood, Spring Texas 77379
281-401-6360



5.

**Bankruptcy Order Converting Case---Order
Providing for Federal Seizure of Dogs, In Re Elaine
Ann Kmiec, No. 14-32964, U.S. Bankruptcy Court for
the Southern District of Texas, Houston Division**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM





ENTERED
08/29/2014

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>IN RE:</p> <p>ELAINE ANN KMIEC</p> <p>Debtor(s).</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>CASE NO: 14-32964</p> <p>CHAPTER 13</p> <p>DAVID R. JONES</p>
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ORDER CONVERTING CASE
(Docket No. 22)

On August 29, 2014, the Court held a compliance hearing in Adversary No. 14-3216 as well as a status conference in Case No. 14-32964. The Court notes that on August 7, 2014, the chapter 13 trustee filed a motion to dismiss or convert this case to chapter 7 [Docket No. 22]. The Debtor has not responded to the motion. On August 28, 2014, Kara Kaufman filed an emergency motion to convert this case to chapter 7 on the grounds on fraud, animal cruelty and abuse of the bankruptcy process.

At the hearing, counsel announced that three dogs that are the subject of the Court's preliminary injunction were returned by Ms. Kmeic to Ms. Kaufman. Ms. Kaufman testified that the three dogs were in poor condition. Ms. Kaufman produced evidence that the dogs will require significant future medical care.

Ms. Kmeic testified regarding her efforts in locating and returning the dogs. The testimony is not credible. Moreover, the act of returning the dogs calls into question Ms. Kmeic's sworn testimony regarding her inability to comply with the Court's temporary restraining order. The Court finds that Ms. Kmeic has violated her oath.

Moreover, the Court has spent considerable time reviewing the docket in this case. The Debtor's schedules contain false statements. The Debtor readily acknowledges that her petition does not identify her use of an alias. Ms. Kmeic has acknowledged that she used this alias to commit fraud in a commercial transaction.

Ms. Kmeic has failed to meet the responsibilities as a debtor under 11 U.S.C. § 521. Most egregious is the fact that her actions danger the lives of 35 animals who cannot speak or protect themselves. The Court cannot condone the use of the bankruptcy process to inflict harm on undeserving creatures. Accordingly it is

ORDERED THAT:

1. This case is converted to chapter 7.
2. The Court strikes the Debtor's Schedule C as the product of fraud. The Debtor shall file her conversion schedules (including a Schedule C) within 14 days.

3. Chapter 7 trustees are not generally equipped to provide care for living creatures. Therefore, Houston Collie Rescue and its volunteers ("HCR") are authorized and directed to remove all dogs that are located at the Debtor's claimed residence of 14234 Alice Road, Tomball, TX 77377. HCR is authorized to enter the property to remove the dogs. The Debtor shall provide access to the property. No person shall inhibit or obstruct HCR from entering onto this property and carrying out the Court's instructions. These animals shall remain in HCR's custody and control pending further order. HCR shall be entitled to an administrative claim for all costs related to the care of these animals.

4. Once the dogs are removed, HCR shall provide the chapter 7 trustee with a report identifying the number of dogs removed, their general condition and any other notable information. HCR shall also submit a proposed placement plan to the chapter 7 trustee for consideration. The Court will consider the placement plan upon written motion filed by the chapter 7 trustee.

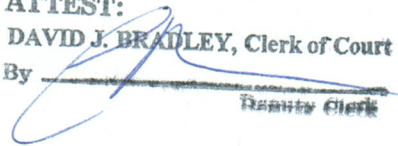
5. The chapter 7 trustee should not seek to abandon any of the animals absent compelling cause.

SIGNED: August 29, 2014.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE



TRUE COPY I CERTIFY
ATTEST:
DAVID J. BRADLEY, Clerk of Court
By 
Deputy Clerk



6.

**Brief in Criminal Cruelty Case: State v. Elaine Kmiec,
No. 202546. Criminal Court No. 10, Harris County,
Texas (prepared before charges filed)**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



ZANDRA R. ANDERSON
ATTORNEY AT LAW

7941 KATY FREEWAY, NO. 412
HOUSTON, TEXAS 77024

TELEPHONE (713) 222-7600

TELECOPIER (713) 481-8793

LICENSED IN TEXAS AND COLORADO

In Re Elaine Ann Kmiec, Debtor
Case No. 14-32964
In the United States Bankruptcy Court for the
Southern District of Texas, Houston Division

Criminal Animal Cruelty

The Penal Code addresses animal cruelty of livestock and non-livestock. Below is the law for dogs. Take note that the highlighted sections are what may apply in the Kmiec case.

Cruelty cases based on care and/or confinement are Class A Misdemeanors that may result in up to 1 year of jail and up to a \$4000.00 fine. However, these cases can be filed per dog thereby stacking occurs. Most of these cases are plead out and the ones that go to trial often result in probated sentences. That is beginning to change with dogs becoming treated more and more as family members.

Torture is a State Jail Felony that may result in up to 180 days in state jail and up to a \$10,000.00 fine. Similarly, cases can be filed per animal and stacked.

Texas Penal Code:

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

Animal Cruelty: Case Law

For some reason, at least half of the animal cruelty cases are not reported. You may find the court's opinion with an admonishment at the top to not publish. Further, there are not a lot of animal cruelty cases that make their way through the appellate system. Prosecutors tend to cut appealing deals and these cases are for the most part misdemeanors so are not appealed as readily as a stiff felony penalty.

Included are some of the unreported cases to illustrate how the statutes have been interpreted and what sort of facts trigger felony charges.

1. Confinement of Tangled Dog and Recklessly Failing to Provide Care.

Thomas v. State, 352 S.W.3d 95 (Tex.App.-Houston [14 Dist.] 2011, pet ref'd)

In *Thomas v. State*, 352 S.W.3d 95 (Tex.App.-Houston [14 Dist.] 2011, pet ref'd), the defendant was charged with cruelly confining a dog (tied so that it became tangled and was strangling) and failing to provide care to two others. Thomas was acquitted on charges stemming from two of the dogs, but convicted of failing to provide care to one dog.

Of note, this case demonstrates how most occur. Constable Chris Kendrick went in Thomas's yard because she responded to a call that a dog was strangling. While in the yard, she decides to get a civil seizure warrant for three dogs. She gets the warrant and contacts the Houston SPCA to take the dogs. Interestingly, at that time she was a county worker and Harris County has an animal control facility at which these dogs could have been sent, but that's not how the cases in this area unfold.

The Court sets out the elements and hones in on "reckless" although they statute also provides that a person can be convicted if he or she commits the crime "intentionally" or "knowingly."

A person commits cruelty to a nonlivestock animal if he, among other acts and omissions, recklessly "fails unreasonably to provide necessary food, water, care, or shelter for an animal in [his] custody." Id. § 42.092(b)(3).[1] Necessary food, water, care, or shelter includes that required to maintain the animal in a state of good health. Id. § 42.092(a)(7).

A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint. Tex. Penal Code Ann. § 6.03(c)

(West 2003). Recklessness is generally proved by circumstantial evidence. See *Dillon v. State*, 574 S.W.2d 92, 94 (Tex.Crim.App. [Panel Op.] 1978).

The HSPCA veterinarian that they used on this case (they do not have a vet on staff) examined the dogs and found as follows:

Dr. Westbrook testified that none of the dogs seized from appellant appeared to have received proper nutrition. She explained that a dog's nutrition level may be examined by determining its body condition scoring ("BCS") score. Under BCS, "there is usually a scale from 1 to 9 ... [1] is the most emaciated of animals, 9 is usually an obese animal. And we like animals to be at a 5, that is ideal." Dr. Westbrook determined dog A07733331 had a BCS score of two, meaning it was "absolutely" not in good condition. [2] The videotape and photographs, when viewed in conjunction with Dr. Westbrook's findings, also support the jury's finding that appellant did not provide proper nutrition. There was no food in appellant's backyard at the time of the seizure except a few dog biscuits. Further, water bowls in the backyard contained filthy and undrinkable water.

Despite the defendant testifying that he regularly fed the dogs and gave them water, the jury convicted him. Importantly, they convicted on the findings of the vet. This is the most current case coming out of the 1st or 14th Courts of Appeal.

Application to Kmiec:

A similar body condition scale was used to evaluate Kara's dogs.¹ That is why the vet records immediately after she got them back was important. If a conviction can be upheld for one dog, it most certainly can for the amount of dogs Kmiec had. Her dogs are in worse condition than the dogs in this case.

2. Cat Case: Do not Have to Prove Malnourished in Addition to Lack of Care & Water.

Kelley Saveika, Appellant v. The State of Texas, Appellee; No. 03-11-00070-CR; Court of Appeals of Texas (Third District, Austin, June 8, 2012). Not Published.

The defendant was found to have 47 live cats and one dead cat in her apartment. Saveika was charged with an offense defined as "fail[ing] unreasonably to provide necessary food, water, care, or shelter," not all of the above. Tex. Penal Code Ann. 42.092(b)(3). The state did not have to prove the cats were malnourished in addition to them having lack of care and water. The list of elements are disjunctive, so any one or more will suffice to uphold a finding of cruelty.

The officers found the inside of the home was covered in debris, urine, and feces and no clean water available. Overturned furniture, computers, garbage, food, and clothing were scattered everywhere. The officers saw only a few sources of water, all of which were contaminated with

¹ The numbering of the body condition scale that Dr. Brannam used on Kara's dogs was different but it does the same thing—assess the dog for emaciation.

food or feces or covered in an oily film. Many of the cats had runny eyes and other physical issues.

The defendant was convicted of animal cruelty and received 90 days in jail suspended for 180 days of community supervision. The conviction was affirmed.

Application to Kmiec:

This case is very similar although the numbers are much worse in Kmiec's case. The prosecution did not have to prove all cats were treated cruelly nor did they have to prove each element of the crime to sustain a conviction. Despite the cats apparently being adequately nourished, the other elements of the crime are just as important and proving any of them will suffice.

3. Embedded Collar Found to be Cruelty.

Ziegelmaier v. The State of Texas, 997 S.W.2d 764 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd)

In the case of *Ziegelmaier v. The State of Texas*, 997 S.W.2d 764 (Tex. App.—Houston [1st Dist.] 1999, pet. ref'd), a jury found Mr. Ziegelmaier guilty of cruelty to animals. League City Animal Control was called to pick up a stray. When the officer picked up the dog, he noticed that there was a collar on the Lab that was barely visible because it was so embedded. The collar had tags that revealed the dog's name to be Jake and the owner's name.

The officer tried to contact Ziegelmaier, the owner, but was not successful. The officer took Jake to the vet and the wound was found to be bloody with pus and a pungent odor. The collar was removed by the vet and Jake's neck was treated. Ziegelmaier tried to have his conviction reversed based on Animal Control taking Jake to the vet without a warrant. This was rejected by the court.

Ziegelmaier was sentenced by the judge to one year in jail, but it was suspended for one year of community supervision, and a \$100 fine. This conviction was upheld on appeal.

Application to Kmiec:

An embedded collar wound looks much like the male collie that had the purulent wound on his neck and severe hair loss. I am not sure what caused that injury but you can rest assured that it was not being addressed by a veterinarian.

4. Cruelty Based on Lack of Food, Water, Care and Shelter.

Moore v. State of Texas, 2005 Tex. App. LWC-9652 (appealed from Henderson County). Not Published.

Hollie Mounts was a meter reader for the City of Log Cabin. He testified that on August 20, 2001, he approached a property later identified as Appellant's property. He noticed a dog hanging over a fence, caught on the fence with its collar. The dog was alive, but was in distress. There was another dog chained in the back yard, and he heard "a bunch of dogs on the inside." Mounts could not find any water set out for the dogs. Both of the dogs that he saw were very "skinny" - "you could see [their] ribs."

Mounts tried to free the dog that was dangling on the fence, but it became aggressive when he approached. Mounts then called the police department, but the police officer was also unable to free the dog due to its aggressiveness. It was 100 degree weather.

Moore was charged with animal cruelty pursuant to the Penal Code. Here is what Ms. Moore had to say as her defense:

Appellant claimed that she usually chained the dogs because of city ordinances prohibiting owners from allowing their dogs to run loose. However, she typically chained them on a longer chain and did not know how the dogs became chained to the fence or the telephone pole on shorter chains that day. She denied that the dogs were starving or thirsty. Even though her water had been cut off, she would get water from her ex-husband's house just down the road. She checked on them and always fed them. Appellant said that the dogs might have gone without water for perhaps a couple of hours.

The court admitted into evidence photos of the various dogs Appellant owned. She testified that the photos depicted their appearance within a month of this incident. She said the dogs were pets that she valued and that she did not leave them without adequate food and water for an unreasonable period of time. Appellant explained that she fed them at nighttime so they would not get sick from eating during the daytime heat. She denied that the dogs were skinny or that their ribs were showing. Appellant was not sure whether she had a flea infestation problem.

Neither the trial court nor the appellate court bought her defense. She was sentenced to a \$500 fine and twenty days in jail.

Importantly, necessary food, water and care must be provided to the "extent required to maintain the animal in a state of good health." All that it took to trigger this cruelty case was two dogs.

Application to Kmiec:

Kmiec had at least 100 dogs on her property. She has no staff. Even if she provided food and water, she was not caring for the dogs and they were cruelly confined.

5. Cruelty Based on Failure to Provide Vet Care.

Martinez v. State 48 S.W.3d 273 (Tex. App. –San Antonio, 2001, pet. ref'd).

This case involves an eighty-three year old woman who was convicted of animal cruelty and sentenced to one year in jail and a \$1000 fine by a jury. The court probated the sentence and the fine with the condition of 100 hours of community service in an animal shelter.

There were some healthy dogs on Ms. Martinez's property, but there was one dog that was malnourished and had very bad sarcoptic mange. The animal control officer testified that he smelled the dog and it did not smell of sulfur which would indicate the dog was being treated. He further testified that Ms. Martinez did not seem upset. *Martinez @ 276.*

Ms. Martinez stated in her own defense that the dog was too big for her to get in the car and that she tried to get the vet to come to her house. She stated that she tried to treat the dog with a mix of Vaseline and sulfur but he was too quick and would get away. Regardless of the fact that she was 83 years old and known for taking in stays, the jury concluded that she should have gotten medical care for the dog and that this amounted to cruelty. The appellate court agreed and the conviction stood.

Application to Kmiec:

Kmiec's situation goes so far beyond this case. Just the sheer numbers of her dogs put the lack of care in play. A prosecutor could focus on the two worst dogs and have a case, but there are 100 dogs that for the greater part have some degree of lack of care. Further, all 100 dogs were cruelly confined.

6. Dog Left in Car in Summer Heat was Found to be Cruelty.

Lopez v. The State of Texas, 720 S.W.2d 201 (Tex. App.—San Antonio 1986, writ ref'd),

Mr. Lopez left his dog in the car in direct sunlight while he went to a movie. This was on July 21, 1985. The windows were left open about 1 ½ inches on each side. The car had a T-Top which allowed sun to shine directly through the roof into the car. There was testimony that it was a very hot, dry day. While Lopez did check on his dog once during the movie, he was still convicted of cruelty. The testifying officer said when the doors were opened, the heat inside the car was worse than it was outside the car.

This case was based on the cruel confinement of the dog. It was filed as a misdemeanor.

Mr. Lopez tried to get his conviction reversed contending that the state did not prove the car was not adequately ventilated. The court rejected this, and his conviction was upheld. . Lopez was convicted and sentenced to five days in jail and a \$50. The sentence was probated to six months.

Application to Kmiec:

This case is very helpful because Kmiec's dogs were housed in closed structures with no ventilation and no air conditioning in the August heat.

7. Leaving Dogs without Food & Water Was Not Torture.

State v. Kingsbury, 129 S.W.3d 202 (Tex. App.—Corpus Christi 2004, no pet.)

The prosecution filed this cruelty case in the district court because they alleged the felony offense of torture. The torture in this case was leaving four dogs without food or water to the extent that it killed them. This case was dismissed for lack of jurisdiction and the appellate court affirmed the trial court's dismissal.

Kingsbury had 76 dogs for the purpose of breeding and selling. He hired Mr. Dominguez to care for them. After an anonymous tip, the Cameron County Animal Control found some dead dogs at the property and others that were emaciated. They had no food or water. Both Kingsbury and Dominguez were arrested for animal cruelty.

The cruelty statute provides that it is a misdemeanor to fail to provide necessary food, care or shelter for an animal. Sec. 42.09 (2) Texas Penal Code. A violation of this section is a Class A misdemeanor so it would not be filed in district court, but rather county court.

This appellate court held that depriving the dogs of food and water in this case was a misdemeanor per the statute and therefore should not have been filed in the district court. Notably, there was a dissent in this case argued that a prosecutor could file these cases as torture if the indictment set out the reasons that such acts amount to torture. The dissent argues that “nothing prohibits the State from alleging conduct that could be prosecuted as an offense under one provision of the animal-cruelty statute as the manner and means of commission of a separate provision.” *Id* @ 209.

The dissent in this case makes good sense and states that “to hold otherwise requires the conclusion that an animal that is starved and dehydrated to death was not tortured for the days before it finally succumbed to starvation and thirst.” *Id*. I cannot think of any worse death than the slow torture of starving an animal and not giving him water. Hopefully, the better reasoned dissent will be followed in future cases.

Application to Kmiec:

I happen to agree with the dissent and think that in today's world, just a mere ten years later, that the deprivation of food and water most definitely could be a felony. Further, we are in Houston, not South Texas, so the treatment and view of dogs is very different based on locale.

8. Cruelty Based on Microwaving Cats.

Celinski v. State of Texas, 911 S.W. 2d 177 (Tex. App. –Houston [1st District] 1996, pet. ref'd)

Mr. Celinski shared a duplex apartment with Sheryl Jones in January, 1994. Jones owned a black, two-year-old male cat named Sugar Ray and a six-to seven-month-old female calico cat named Bonnie. Jones testified that the couple had some problems and that their relationship was a little tense. The appellant told Jones he believed she loved the cats more than she loved him, and paid more attention to the cats than to him. When Ms. Jones was away, Celinski microwaved the cats and forced acetaminophen down their throats. When she returned, Sugar Ray was wet, foaming at the mouth, suffering from diarrhea, and could barely stand up. The skin on his paws was blistered and he was howling in pain. *Celinski @ 178-179.*

When questioned by Ms. Jones, Celinski said he could not do something “that mean” and that that they would “get over it.” *Id.* Undaunted, Ms. Jones took her cats to the vet and they were treated for poisoning, but both Sugar Ray and Bonnie died.

Ms. Jones accused him of killing her cats. When Jones told him that such conduct suggested mental illness, instead of mere meanness, the appellant became red-faced and very upset, saying, "No, I don't think so. I don't think that would be mentally ill. Do you think people that hunt deer, that hunters are mentally ill?" *Id.*

Fortunately, Ms. Jones made Celinski move out and when she was collecting his things to help expedite the move, she discovered cat hair on the microwave and opened it to a nauseating smell. She hid it and got it inspected by the SPCA. Celinski’s defense at the cruelty trial was that the cats must have gotten into to the cleaning products he was using that day. Of course, he never could quite explain the incense he was burning when she came home that fateful day particularly since he never had burned it before.

Celinski was convicted of misdemeanor cruelty and was sentenced to one year in jail. The trial court instead gave him two years probation, an \$1800 fine and 2400 hours of community service.

This case was filed as a misdemeanor but would most likely be filed as a felony today. The statute has changed since the filing of this case providing for felony charges in torture.

Application to Kmiec:

Currently, microwaving a cat would be filed as torture. This is the kind of egregious facts ramp a case up to a felony. However, due to the number of dogs there could be an argument made under the torture definition for their confinement. Of course, there is a risk that it could be dismissed but it could be refiled as a misdemeanor. Prosecutors are usually looking for these to ramp up a case to torture but again, the numbers can change that.

9. Cruelty Based on Torture of Cat.

Hansen v. State, 2004 WL 1353783 (Tex. App.--Dallas, 2004), Not Published.

The defendant wrapped his wife’s cat up in twine, to point that cat's ribs were broken, and then shoved the cat under car. He then threw the cat named Scooter against garage door and shoe tree,

and he picked Scooter up by scruff of neck causing damage to the cat's skin, and then poured hot pepper sauce on the cat.

When his wife questioned him about what he had done, he replied that the cat was okay and that he had been playing a little game with her. The wife left with their daughter and Scooter. Scooter died at the vet several days later.

Hansen was convicted of animal cruelty based on torture and the court sentenced appellant to eighteen months of confinement in a state jail facility, probated for five years, and ordered appellant to serve ninety days in the Collin County Detention Facility as a term and condition of his probation. These are compelling facts that triggered the felony charge.

10. Juvenile Declared Delinquent Based on Torture of Cat.

In Re J.A.M., 2003 WL 22303115 (Tex. App.--Austin, 2003). Not Published.

A juvenile boy threw a cat into a swimming pool and would not allow the cat to get out by putting his foot on her head. She drowned. A twelve year old girl owned a gray and white cat that was found dead and was wet on its underside. She overheard some boys talking at school about how one of them had drowned a cat. She said the boys were “excited, smiling and laughing.”

At the time of this case, the Penal Code did not define torture. The 2007 legislature provides a definition of torture which is in line with this court’s definition. The court reasoned:

See Barnett v. State, 117 Tex.Crim. 358, 35 S.W.2d 441, 443 (Tex.Crim.App.1931) (“The word ‘torture’ ... is held to include every act or omission whereby unnecessary or unjustifiable pain or suffering is caused to an animal.”). We believe appellant's conduct clearly comes within the definition of torture of an animal. As the trial court aptly put it:

“there is no broken bone in this, there is no burn but, you know, there is not really any crueller way to go than to drown. You know, the fact that the skin wasn't broken did not mean that the cat wasn't injured, and the horror of trying to save yourself from drowning I think is torture.”

The juvenile was convicted and received four months of probation.

Application to Kmiec:

The definition of torture in the statute and case law does not give latitude to what cases it can apply. Even though usually care and confinement are misdemeanors, the number of dogs might serve to justify a felony torture claim. However, there is some thinking in these cases that the allegations must apply to each dog separately. That is why some prosecutors have elected to stack numerous misdemeanor charges.

11. Torture as Cruelty: Taping Snout of Dog.

Swift v. The State of Texas, 2006 Tex. App.Lexis 3208 (Ft.Worth). Not published.

The neighbors saw that Bull, a Labrador, had masking tape around his snout and head. He was heaving. They got him to a vet and he was suffering from heat stroke. With his mouth taped shut, he could not pant. He was treated, but later died.

The owner admitted to taping his snout and said he did it “to teach him a lesson” so that he would quit barking. He was convicted of torture and complained on appeal that his conviction should be reversed because the cruelty statute did not define torture. The appellate court upheld the conviction and held that his actions were cruel and that a definition in the dictionary would suffice.

Currently, the statute does define torture. This case illustrates the sort of gripping facts that precipitate a felony charge based on cruelty.

12. Torture of a Bat: Cruelty finding Delinquency.

In re M.C.S., 327 S.W.3d 802 (Tex.App.-Fort Worth 2010, no pet)

The court affirmed a delinquency case based on the torture of a bat by setting it on fire. The defense contended the bat was already dead but this was not supported by the evidence. This case illustrates the evolution of cruelty cases to even extend to bats. However, burning an animal is a very shocking type behavior.



7.

Misdemeanor Criminal Charge—Cruelty to Non-Livestock Animals: State v. Elaine Ann Kmiec, No. 2025455

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



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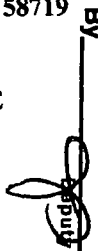
THE STATE OF TEXAS
VS.
ELAINE ANN KMIEC
14234 ALICE
TOMBALL, TX 77375

02791707

SPN:
DOB: WF 03/17/1953
DATE PREPARED: 5/11/2015

D.A. LOG NUMBER: 2148673
CJIS TRACKING NO.:

BY: ZAG DA NO: 002158719
AGENCY: HCCO # 5
O/R NO: HC140152121
ARREST DATE: TO BE

By: 
Time: MAY 12 2015 15:29
Harris County, Texas
Chris Daniel
District Clerk

NCIC CODE: 5300 07

RELATED CASES: 3 OTHER MISD

MISDEMEANOR CHARGE: CRUELTY TO NON-LIVESTOCK ANIMALS

CAUSE NO:

2025455

BAIL: \$1,000
PRIOR CAUSE NO:

HARRIS COUNTY CRIMINAL COURT AT LAW NO: 10
FIRST SETTING DATE: tobe

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

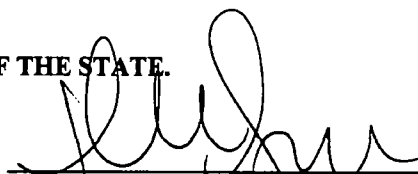
Comes now the undersigned Assistant District Attorney of Harris County, Texas on behalf of the State of Texas, and presents in and to the County Criminal Court at Law No. of Harris County, Texas, that in Harris County, Texas, ELAINE ANN KMIEC, hereafter styled the Defendant, heretofore on or about AUGUST 29, 2014, did then and there unlawfully intentionally, knowingly, or recklessly, fail unreasonably to provide necessary food, water, care, or shelter for an animal in the Defendant's custody namely, a canine, ANIMAL ID # 1, NAMED CORKY, by failing to provide adequate food to help keep the canine in good health, and the Defendant's conduct was not a generally accepted and lawful form of conduct occurring solely for the purpose of or in support of fishing, hunting, or trapping; wildlife management, wildlife control, depredation control, or shooting preserve practices as regulated by state and federal law; or animal husbandry or agriculture practice involving livestock animals.

It is further presented that in Harris County, Texas, ELAINE ANN KMIEC, hereafter styled the Defendant, heretofore on or about AUGUST 29, 2014, did then and there unlawfully intentionally, knowingly, or recklessly, fail unreasonably to provide necessary food, water, care, or shelter for an animal in the Defendant's custody namely, a canine, ANIMAL ID # 1, NAMED CORKY, by failing to provide veterinary services to keep the canine in good health, and the Defendant's conduct was not a generally accepted and lawful form of conduct occurring solely for the purpose of or in support of fishing, hunting, or trapping; wildlife management, wildlife control, depredation control, or shooting preserve practices as regulated by state and federal law; or animal husbandry or agriculture practice involving livestock animals.

It is further presented that in Harris County, Texas, ELAINE ANN KMIEC, hereafter styled the Defendant, heretofore on or about AUGUST 29, 2014, did then and there unlawfully intentionally, knowingly, or recklessly, fail unreasonably to provide necessary food, water, care, or shelter for an animal in the Defendant's custody namely, a canine, ANIMAL ID # 1, NAMED CORKY, by failing to provide adequate water to keep the canine in good health, and the Defendant's conduct was not a generally accepted and lawful form of conduct occurring solely for the purpose of or in support of fishing, hunting, or trapping; wildlife management, wildlife control, depredation control, or shooting preserve practices as regulated by state and federal law; or animal husbandry or agriculture practice involving livestock animals.

It is further presented that in Harris County, Texas, ELAINE ANN KMIEC, hereafter styled the Defendant, heretofore on or about AUGUST 29, 2014, did then and there unlawfully intentionally, knowingly, or recklessly, fail unreasonably to provide necessary food, water, care, or shelter for an animal in the Defendant's custody namely, a canine, ANIMAL ID # 1, NAMED CORKY, by failing to provide adequate shelter to keep the canine safe or protected from the environmental elements, and the Defendant's conduct was not a generally accepted and lawful form of conduct occurring solely for the purpose of or in support of fishing, hunting, or trapping; wildlife management, wildlife control, depredation control, or shooting preserve practices as regulated by state and federal law; or animal husbandry or agriculture practice involving livestock animals.

AGAINST THE PEACE AND DIGNITY OF THE STATE.


ASSISTANT DISTRICT ATTORNEY
OF HARRIS COUNTY, TEXAS.


BAR CARD NO.



8.

**Felony Criminal Charge—Fabricating Physical
Evidence: State v. Elaine Ann Kmiec, No. 02791707,
Harris County District Court**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



187

02791707

PR

THE STATE OF TEXAS
VS

02791707

D A LOG NUMBER 2202837
CJIS TRACKING NO

ELAINE ANN KMIEC

SPN:
DOB: WF 03/17/53
DATE PREPARED 10/13/2015

BY: JSW DA NO. 002672306
AGENCY HCSO
O/R NO: 15159022
ARREST DATE TO BE

NCIC CODE 4802 21

RELATED CASES.

FELONY CHARGE TAMPERING/FABRICATING PHYSICAL EVIDENCE
CAUSE NO

HARRIS COUNTY DISTRICT COURT NO:
FIRST SETTING DATE.

1484848
185

BAIL. \$5000
PRIOR CAUSE NO

FILED
Chris Daniel
District Clerk
OCT 13 2015
16/6
Harris County, Texas
Deputy

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

Before me, the undersigned Assistant District Attorney of Harris County, Texas, this day appeared the undersigned affiant, who under oath says that he has good reason to believe and does believe that in Harris County, Texas, ELAINE ANN KMIEC hereafter styled the Defendant, heretofore on or about SEPTEMBER 24, 2013, did then and there unlawfully knowing that an OFFICIAL PROCEEDING was IN PROGRESS, PRESENT A DOCUMENT, NAMELY, A FORGED DURABLE POWER OF ATTORNEY with knowledge of its falsity and with intent to affect the course and outcome of the OFFICIAL PROCEEDING

PROBABLE CAUSE

The Affiant, Investigator J Nowitz, a peace officer employed by the Harris County Sheriff's Office, has reason to believe and does believe the Defendant, Elaine Ann Kmiec, DOB 03/17/1953, committed the offense of tampering with physical evidence on or about September 24th, 2013, in Harris County, Texas

The Affiant's belief is based on the following

The Affiant was contacted by Harris County Assistant District Attorney, Breanna Schwartz, regarding assistance with a possible forgery The Affiant learned from Schwartz, there is an open case against Elaine Kmiec, for Animal Cruelty During the course of the investigation ADA Schwartz became aware of a ruling from a federal bankruptcy judge regarding Elaine Kmiec's bankruptcy. The Affiant reviewed an order from Federal Bankruptcy Judge David R Jones, regarding case number 14-32964-H2-7, " Elaine Ann Kmiec Debtor", and found the following:

"The Court previously determined that Ms. Kmiec committed perjury in her testimony before the court [Docket Nos 36 and 45 in the main case], violated her oath, filed false bankruptcy schedules, Ms Kmiec sponsored false evidence, including a forged notary certificate [Docket No 45 in the main case] "

The Affiant was also advised by ADA Schwartz that a fictitious document, a durable power of attorney, bearing a forged notary signature was filed by Elaine Kmiec, hereafter the defendant, during the course of an official proceeding, a lawsuit between the defendant and Elaine Kaufman in Justice of the Peace Court 5, place 1, located at 6000 Chimney Rock, in Harris County, Texas The Affiant obtained a copy of the document, which was filed with the court on September 24th, 2013 The document alleges a power of attorney between Sheila Kopman to Elaine Kmiec. There are no records of a Sheila Kopman in any Texas database the Affiant reviewed Further the Power of Attorney was notarized by John P Chance and bearing his seal and a signature purporting to be his date April 15th, 2013 The Affiant obtained an affidavit from John Chance stating his signature was forged and he did not notarize that document

The Affiant met with John Chance, who the Affiant found reliable and credible Chance advised the Affiant he believed someone copied his seal onto the document in question The Affiant found the signature on the document was a poor copy of Chance's common signature Chance also advised he keeps a log book of notarized documents as required, and he had no logs on the date in question

The Affiant contacted Kara Kaufman, who the Affiant found reliable and credible Kaufman stated she met a woman who identified herself as Sheila Kopman, who she later found was actually the Defendant using a fake name During the lawsuit Kaufman's attorney found the document filed with the court as Kmiec began to claim she was representing Sheila Kopman during all transactions. Kaufman stated her attorney found the document to be a forgery and used it as plaintiff's exhibit 8 in the case.

The Affiant contacted the Honorable Judge Ridgeway who stated he loosely remembers the case, but had the case file in front of him Judge Ridgeway stated the Defendant was not represented by an attorney, and that the forged document in question alleging a power of attorney from Sheila Kopman to Elaine Kmiec was filed with his court



9.

**Plea in Misdemeanor Criminal Charge—Cruelty to
Non-Livestock Animals: *State v. Elaine Ann Kmiec*,
No. 2025455**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



CAUSE NO. 2025455

THE STATE OF TEXAS § IN THE COUNTY CRIMINAL
vs. § COURT AT LAW NUMBER 10
ELAINE KMIEC § HARRIS COUNTY, TEXAS

MISDEMEANOR PLEA OF GUILTY / NOLO CONTENDERE

OFFENSE, RANGE OF PUNISHMENT, PLEA BARGAIN. Comes Now Defendant prior to entering a plea herein representing to the Court the following: I am mentally competent and charged with the misdemeanor offense of Animal Cruelty - Non livestock for which the punishment is by a fine not to exceed \$ 4,000, or confinement in the Harris County Jail not to exceed 1 year, of both. I have entered into a plea bargain agreement with the State as follows: 1 year probation no animals; continued

Counseling; PUA; DRT, restitution; \$50 Crime Expenses; 80 hrs C.S. (129, 278-88) to Houston Cattle Rescue CC w/ 2025456

ACKNOWLEDGEMENT OF RIGHTS. I understand that I have the right to: have a jury decide my guilt or innocence, and, if found guilty, assess my punishment; compel witnesses to testify on my behalf; confront and cross-examine my accusers; arraignment and have the charge read to me in open court; remain silent; that anything I say can be used against me; and the right to have ten (10) days after the appointment of my attorney before entering a plea of guilty/nolo contendere.

LIMITED RIGHT TO APPEAL. DIRECT AND COLLATERAL CONSEQUENCES. I understand that upon a plea of guilty/nolo contendere, with a jury waiver, the court may assess punishment without evidence; and that if the court does not exceed the agreed recommendation in assessing punishment that my right to appeal my conviction will be limited to matters raised by written motion and ruled upon before trial unless the court gives permission to raise other matters; that if I am on community supervision or parole, my plea of guilty/nolo contendere may result in the revocation of my community supervision or parole resulting in additional confinement; that if I am found guilty this case may be used to enhance my punishment if I am convicted of another offense; and if applicable, my privilege to drive may be cancelled, suspended revoked; or denied.

I fully discussed this case with my attorney, and he or she answered each question to my satisfaction.

WAIVER. With a full understanding of my rights, I knowingly and voluntarily waive each of the rights listed above, and I wish to plead guilty/nolo contendere to the offense alleged in the State's information; and that any enhancement paragraph is true.

PLEA. In open court I knowingly and voluntarily enter my plea of guilty/nolo contendere to the offense charged in the information and request the Court immediately dispose of this case based upon my plea agreement with the prosecutor. I further understand that if the judge does not follow the plea bargain, I will be allowed to withdraw my plea.

X Elaine Kmiec
Signature of Defendant

1/21/16
Date

cc with 2025456

Retained or Appointed Counsel

ACKNOWLEDGEMENT OF COUNSEL. I have consulted with the defendant whom I believe to be competent and to whom I have fully explained all of the matters contained herein including immigration consequence, if applicable.

AS APPOINTED COUNSEL, I affirm that I fulfilled my duties under article 26.04(j) Code of Criminal Procedure, (Vernon 2011) and request the Court allow me to withdraw as attorney of record at the conclusion of this proceeding.

BRET S. KISLUK
Name of Counsel (please print) [Signature]
Signature of Counsel for the Defense

PROSECUTOR'S CONSENT AND APPROVAL OF JURY WAIVER. The undersigned assistant district attorney, on behalf of the State of Texas, consents to and approves the defendant's waiver of trial by jury.

[Signature] Assistant District Attorney, Harris County, Texas Date 1/26/16

FINDING OF COMPETENCE. Based upon the defendant's demeanor and responses, the Court **FINDS** the defendant is competent and is knowingly, intelligently and voluntarily waiving the rights set out above including the right to a jury trial, and is knowingly, intelligently and voluntarily entering this plea.

RIGHT TO POSSESS A FIREARM OR AMMUNITION. CITIZENSHIP, IMMIGRATION CONSEQUENCES. I informed the defendant of the nature of the charges, all rights and consequences of a plea of guilty/*nolo contendere*; including: that if the offense involves family violence as that term is defined in the Texas Family Code, Section 71.004 it will be unlawful for the defendant to possess a firearm, including a handgun, long gun, or ammunition, pursuant to federal law under 18 USC Section 922(g)(9), or Section 46.04(b), Texas Penal Code.

FILED
Chris Daniel
District Clerk
JAN 26 2016

The defendant informed me that he or she is a United States citizen. The defendant informed me that he or she is not a United States citizen, and I admonished the defendant that a plea of guilty or *nolo contendere* for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law.

ACCEPTANCE OF PLEA.

The Court **FINDS** there is sufficient information in the record to permit the meaningful exercise of sentencing discretion.
 The defendant requests that a presentence investigation report not be made and the Court agrees to the request.

WITHDRAWAL OF APPOINTED COUNSEL. The Court, **FINDING** counsel is appointed, pursuant to Tex. Code Crim. P. Art 26.04(j) (Vernon 2011), **GRANTS** counsel's oral motion to withdraw, and **ORDERS** the Harris County District Clerk to make an entry in the Justice Information Management System reflecting counsel's motion and the Court's ruling.

[Signature] Judge Presiding Date Signed 1.26.16

This document was translated verbatim from English to _____
by: _____
(Print Name of Interpreter) (Signature of Interpreter)



I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.
Witness my official hand and seal of office this February 3, 2016

Certified Document Number: 68738697 Total Pages: 2

Chris Daniel, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com



10.

**Judgment of Conviction—Cruelty to Non-Livestock
Animals: State v. Elaine Ann Kmiec, No. 2025455;
Harris County Criminal Court at Law 10.**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM





CASE NO 202545501010
INCIDENT NO /TRN 9170873399A001

THE STATE OF TEXAS

§
§
§
§
§
§
§

IN THE COUNTY CRIMINAL

v.

COURT AT LAW NO. 10

KMIEC, ELAINE ANN

HARRIS COUNTY, TEXAS

STATE ID NO TX50701485

JUDGMENT OF CONVICTION BY COURT—WAIVER OF JURY TRIAL

Judge Presiding	HON DAN SPJUT	Date Judgment Entered	01/26/2016
Attorney for State	J. SANCHEZ	Attorney for Defendant	KISLUK, BRET STEVEN
<u>Offense for which Defendant Convicted</u>			
CRUELTY NON-LIVESTOCK ANIMALS			
<u>Charging Instrument</u>		<u>Statute for Offense</u>	
INFORMATION		N/A	
<u>Date of Offense</u>			
08/29/2014			
<u>Degree of Offense</u>		<u>Plea to Offense</u>	<u>Findings on Deadly Weapon</u>
CLASS A MISDEMEANOR		GUILTY	N/A
<u>Terms of Plea Bargain</u>			
1 YEAR PROBATED FOR 2 YEARS			
Plea to 1 st Enhancement Paragraph	N/A	Plea to 2 nd Enhancement/Habitual Paragraph	N/A
Findings on 1 st Enhancement Paragraph	N/A	Findings on 2 nd Enhancement/Habitual Paragraph	N/A
Date Sentence Imposed	01/26/2016	Date Sentence to Commence	N/A
Punishment and Place of Confinement	1 YEAR COUNTY JAIL		

THIS SENTENCE SHALL RUN CONCURRENTLY.

SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR 2 YEARS.

<u>Fine</u>	<u>Court Costs</u>	<u>Restitution</u>	<u>Restitution Payable to</u>
\$ N/A	\$ As Assessed	\$ N/A	<input type="checkbox"/> VICTIM (see below) <input type="checkbox"/> AGENCY/AGENT (see below)

If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.

Time Credited N/A DAYS NOTES N/A

Driver's license is suspended for a period of N/A

Family Violence:

The Court FINDS that Defendant was prosecuted for an offense under Title 5 of the Penal Code that involved family violence TEX CODE CRIM PROC art 42.013

Weapon Forfeiture:

The Court FINDS that a law enforcement agency, namely , seized a weapon, namely , in connection with an offense involving the use of a weapon or an offense under Chapter 46 of the Penal Code The Court FINDS that 1) Defendant has been previously convicted under Chapter 46 of the Penal



11.

**Supplement to United States Sentencing
Memorandum: False Statement Under Oath, United
States of America v. Elaine Ann Kmiec a/k/a Sheila
Kopman, 4:19CR00371-001, U.S. District Court for
the Southern District of Texas.**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA

v.

ELAINE ANN KMIEC

CRIMINAL NO. 4:19-CR-371

SUPPLEMENT TO UNITED STATES' SENTENCING MEMORANDUM

The United States of America, by and through its undersigned attorneys, respectfully submits the following supplement to its sentencing memorandum:

On February 18, 2020, Defendant Elaine Ann Kmiec filed a sentencing memorandum, which argued for a sentence below the advisory guideline range based in part on the fact that Kmiec is suffering from a hoarding disorder. The United States agrees that Kmiec needs mental health treatment, but in Kmiec's circumstance, that treatment can be better provided by the Bureau of Prisons, rather than a private facility outside of the prison system. This is for two reasons: (1) Kmiec has already demonstrated that she will not obey court orders, including orders issued by this Court; and (2) Kmiec already tried and failed to attend counseling for hoarding disorder during the Bankruptcy Court proceedings, because in her own words, she "does not want to be treated."¹

¹ See Exhibit 2, Transcript of Jan. 20, 2016 Hearing, at 15.

On April 29, 2015, the Bankruptcy Court issued an Agreed Order for Counseling. *See* Exhibit 1, Agreed Order for Counseling. This Order was part of the global settlement agreement entered into by the parties to Kmiec’s bankruptcy proceeding, which was described in Part C of the United States’ Sentencing Memorandum, Docket No. 52.

Pursuant to the Agreed Order, Kmiec attended monthly support group meetings conducted by the Houston Hoarding Support Group from May through October of 2015. *See* Exhibit 2, Transcript of Jan. 20, 2016 Hearing, at 11. After October 2015, Kmiec stopped attending counseling despite the Bankruptcy Court’s order requiring her to attend. *See id.* at 10. Moreover, on August 18, 2015, Dr. John Hart, who facilitated the Houston Hoarding Support Group, wrote a letter saying “It is my opinion that Elaine Kmiec is unwilling to use the Houston Hoarding Support Group and her further attendance is not likely to be productive.” *See* Exhibit 3, Aug. 18, 2015 Letter of Dr. Hart. In addition, Dr. Hart sent the Trustee an email on October 28, 2015 that stated, “hoarding sufferers in general are notoriously treatment resistant. It is obviously hard to treat someone who does not want to be treated.” *See* Exhibit 4, Emails from Dr. Hart, at 1-2.² Kmiec also testified to the Bankruptcy Court that she did not want to be treated. *See* Exhibit 2, at 15.

² Rhonda R. Chandler, the recipient of Dr. Hart’s email, was an attorney representing the Chapter 7 Trustee Janet Northrup in the bankruptcy court proceedings.

The Trustee informed Kmiec that she still needed to attend counseling somewhere else. *See* Exhibit 2 at 12, 16. The Trustee provided Kmiec with two recommended facilities: Houston OCD and Peace of Mind. The Trustee had spoken with Houston OCD and Peace of Mind, and both had indicated they were willing to provide counseling to Kmiec. *Id.* at 18-19. However, after Kmiec called Houston OCD and Peace of Mind, neither were willing to provide counseling to Kmiec. *Id.* Kmiec did not return to counseling after October 2015. *See* Exhibit 2, at 10.

Accordingly, Kmiec has demonstrated that she will not obey any court orders, including orders to attend counseling. Kmiec has also testified that she does not want to be treated. Under these circumstances, the United States' recommended sentence of 60 months is the most appropriate sentence, and any mental health treatment that Kmiec needs would be best administered by the Bureau of Prisons.

Respectfully submitted,

RYAN K. PATRICK
United States Attorney

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney
1000 Louisiana Street, Suite 2300
Houston, Texas 77002
(713) 567-9000

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, which was filed electronically, has been delivered automatically to the attorneys for the defendants by the ECF system.

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney



12.

**U.S. District Court Judgment in a Criminal Case—
False Statement Under Oath, *United States of America*
v. Elaine Ann Kmiec a/k/a Sheila Kopman,
4:19CR00371-001, U.S. District Court for the
Southern District of Texas..**

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLEYER@YAHOO.COM



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
Holding Session in Houston

ENTERED
February 25, 2020
David J. Bradley, Clerk

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

ELAINE ANN KMIEC

CASE NUMBER: 4:19CR00371-001

A/K/A Sheila Kopman

USM NUMBER: 93913-479

John Dennis Hester, AFD

Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s) 2SS on October 24, 2019.
- pleaded nolo contendere to count(s) _____
which was accepted by the court.
- was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 152(2)	False Statement Under Oath	08/29/2014	2SS

See Additional Counts of Conviction.

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) _____
- Count(s) remaining _____ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

February 21, 2020

Date of Imposition of Judgment

Signature of Judge

SIM LAKE

SENIOR UNITED STATES DISTRICT JUDGE

Name and Title of Judge

February 25, 2020

Date

DEFENDANT: **ELAINE ANN KMIEC**
CASE NUMBER: **4:19CR00371-001**

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of: 10 months.

This term consists of TEN (10) MONTHS as to Count 2SS.

- See Additional Imprisonment Terms.
- The court makes the following recommendations to the Bureau of Prisons:
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district:
 - at _____ on _____
 - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: **ELAINE ANN KMIEC**
CASE NUMBER: **4:19CR00371-001**

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of: 3 years.
This term consists of THREE (3) YEARS as to Count 2SS.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- See Special Conditions of Supervision.

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.
14. If restitution is ordered, the defendant must make restitution as ordered by the Judge and in accordance with the applicable provisions of 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663A and/or 3664. The defendant must also pay the assessment imposed in accordance with 18 U.S.C. § 3013.
15. The defendant must notify the U.S. Probation Office of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines, or special assessments.

DEFENDANT: **ELAINE ANN KMIEC**
CASE NUMBER: **4:19CR00371-001**

SPECIAL CONDITIONS OF SUPERVISION

You must participate in a cognitive behavioral-treatment program, including individual and group therapy from a mental health provider who has experience with Hoarding Disorder and evidence-based treatments that specifically address this condition. Treatment shall include psychoeducation as well as elements of cognitive therapy and exposure therapy. You must follow the rules and regulations of the program. The probation officer will supervise your participation in the program, including the provider, location, modality, duration, and intensity. After completion of the program, you must attend a Hoarding Support Group if recommended by the mental health provider. You must pay the costs of the program, if financially able.

You must submit to a psychiatric evaluation and follow all recommendations, including medications.

You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.

You must not incur new credit charges or open additional lines of credit without the approval of the probation officer.

You must forfeit the remaining three dogs in her custody as soon as practicable within the time constraints given to defense counsel in Court. (Defense counsel to provide additional information to the Government regarding the whereabouts of the dogs within 10 days from February 21, 2020.)

You must not own, keep, or care for any animal without prior written permission from the probation office.

DEFENDANT: ELAINE ANN KMIEC
CASE NUMBER: 4:19CR00371-001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Restitution</u>	<u>Fine</u>	<u>AVAA Assessment*</u>	<u>JVTA Assessment**</u>
TOTALS	\$100.00	\$62,639.30	\$	\$	\$

- See Additional Terms for Criminal Monetary Penalties.
- The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss***</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Janet S. Northrup, Chapter 7 Trustee	\$	\$30,848.94	
Houston Collie Rescue		\$26,888.42	
Kara Valera		\$4,901.94	

- See Additional Restitution Payees.

TOTALS	\$	<u>\$62,639.30</u>
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- Restitution amount ordered pursuant to plea agreement \$_____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- Based on the Government's motion, the Court finds that reasonable efforts to collect the special assessment are not likely to be effective. Therefore, the assessment is hereby remitted.

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
 ** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
 *** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: ELAINE ANN KMIEC
CASE NUMBER: 4:19CR00371-001

SCHEDULE OF PAYMENTS

Having assessed the defendant’s ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 - not later than _____, or
 - in accordance with C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after the date of this judgment; or
- D Payment in equal _____ installments of \$ _____ over a period of _____, to commence _____ after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ after release from imprisonment. The court will set the payment plan based on an assessment of the defendant’s ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Payable to: Clerk, U.S. District Court, Attn: Finance, P.O. Box 61010, Houston, TX 77208

Any unpaid balance due in payments of the greater of \$25 per quarter or 50% of any wages earned while imprisoned. The defendant will receive credit for any payments made through the BOP IFRP. Any balance remaining after release from imprisonment shall be paid in monthly installments of \$350 to commence 60 days after release to a term of supervision.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons’ Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number

Defendant and Co-Defendant Names (including defendant number)	<u>Total Amount</u>	<u>Joint and Several Amount</u>	<u>Corresponding Payee, if appropriate</u>
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- See Additional Defendants and Co-Defendants Held Joint and Several.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant’s interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.



13.

Resume of Zandra Anderson

7941 KATY FREEWAY, No. 412
HOUSTON TEXAS 77024-1924
TEL: 713-222-7600
TEXASDOGLAWYER@YAHOO.COM





Licensed in Texas & Colorado
www.TexasDogLawyer.com

- ✿ Handled cases involving dogs, cats, horses, birds, monkeys, lemurs, ferrets and two elephants.
- ✿ Texas Animal Law Seminar (2006-2015) – produce legal animal law seminars; accredited by the State Bar of Texas, the Texas State Board of Veterinary Medical Examiners, Texas Animal Control Association and Texas Commission on Law Enforcement for continuing education
- ✿ Felony Dangerous Dog Attack Cases (Health & Safety Code; Sec. 822.005-effective 9/1/07)
- ✿ Dangerous Dog Declarations- represent dog owners and their dogs
- ✿ Cruelty - Represent owners/rescue organizations in civil seizure cases and criminal cruelty cases; represent individuals/rescue organizations to aid in civil seizures of cruelly treated animals
- ✿ Ownership Issues-represent owners for the return of animals; Co-Ownership disputes
- ✿ Expert Witness-served as consulting and testifying expert in animal cases.
- ✿ Contracts- Applications for Adoption, Adoption Contracts, Owner Relinquishment, Breeder Contracts, Co-Ownership Contracts, contract disputes, AKC issues.
- ✿ Property Owners Association (POA/HOA) and deed restrictions regarding dogs
- ✿ Breed Specific Legislation- Advocate for fair laws for all dogs as written and applied
- ✿ Dog Bite Cases-represent owners of accused dogs and individuals who have been bitten by dogs
- ✿ Liability Issues regarding Rescue Organizations, Kennel Owners, Pet Sitters/Walkers, Dog Trainers, Dog Handlers, Veterinary Malpractice, Loss of or Injury to Pets
- ✿ Texas Legislature-Draft and analyze proposed statutes regarding animal laws
- ✿ Municipal Ordinances-Draft and analyze proposed animal ordinances statewide
- ✿ City Councils- Consult with city councils, city attorneys statewide regarding animal laws
- ✿ Animal Control- Consult with animal control statewide regarding animal laws/implementation
- ✿ Rescue Organizations--consult with/represent rescues regarding legal issues
- ✿ Breed Clubs--consult with/represent regarding legal issues concerning them.
- ✿ Legal Advocate for Texas Legislature- prepare briefs & legal analysis for legislators, testify in the House & Senate Hearings on proposed animal legislation, coordinate efforts with constituents.
- ✿ Lecturer-Frequent lecturer and guest speaker on various dog related legal topics, breed issues, responsible ownership, breed specific legislation
- ✿ Founder, Texas Dog Coalition (Advocate for Dogs & their Owners, 2006-present)
- ✿ Train/Show Dogs-Conformation, Tracking, Nose Work, Obedience, Rally, Canine Good Citizen, Fast CAT (lure coursing), Barn Hunt and Dock Diving.
- ✿ Media-Frequent appearances regarding animal issues for television, radio and print media; personal dogs used in television/print media as breed ambassadors

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 HOUSTON TEXAS 77024-1924
 TEL: 713-222-7600
 TEXASDOGLEYER@YAHOO.COM



PUBLICATIONS (BOOKS)

Texas Dog Law Manual© 2006- present. Compilation of Texas laws regarding dogs and cats (and other animals) including state, local and case made law.

Legal Issues Involving Animal Associations & Individuals Helping Animals, 2008
American Bar Association's *Guide to Litigating Animal Law Disputes; Tort & Insurance Practice Section (TIPS)*; Author of above entitled chapter.

PUBLICATIONS (ARTICLES)

Microchips: Ownership & the Ethical Dilemmas for Veterinarians©; Society for Veterinary Medical Ethics; June 2016

Dog Ownership: How Owners and Rescue Organizations Can be at Odds ©; Paw Prints, Penobscot Valley Kennel Club (Maine); June 2016

Canine Roll Model: Make Your APBT an Ambassador for this Breed, Training Secrets for the American Pit Bull Terrier Magazine, March 2013, contributor.

Dispel Bad Stereotypes, Training Secrets for Doberman Pinschers Magazine, Vol. 21, 2012, contributor.

Texas House Bill 1355: How to Become a Felon Via Your Dog”; American Dog Breeders’ Association Magazine, October, 2007

BSL (Breed Specific Legislation): How the Talk Starts ©. Atomic Dogg Magazine, 2007, Issue 4, pgs. 58-59.

Pet Sitter Liability: A Pearl of Wisdom©, National Association of Professional Pet Sitters Network Magazine, Spring 2007, Vol. 17, Number 1, pgs. 12-13.

Too Hot to Trot: The Dog Days of Summer Are Not For Dogs©, Texas Health and Fitness, July 2001

CONTINUING EDUCATION SEMINARS/ SPEAKING APPERANCES

“How 3 Collies Turned into 150+ Collies,” Texas State Bar Animal Law Institute (2023)

“From Mill to Merit: Dog Breeding in Texas,” Texas State Bar, Animal Law Section (2022)

“Hot Topics in Animal Law;” University of Houston -paralegal course (2016—2022)

“Legal Agreements Concerning Dogs;” Bluebonnet Poodle Club (May 2018)

“Animal Cruelty in Texas;” Harris County Bar Association (October 2016)

“Ownership & Liability Issues;” Houston Poodle Club (September 2016)

“Current Animal Law Cases of Significance;” Houston Area Legal Professionals (August 2016)

“Dog Ownership: *Lira v. Greater Houston German Shepherd Dog Rescue, Inc.*;” Shetland Sheepdog Club of Houston (March 2016)

“Three Cases: The Direction of Animal Law;” Houston Metropolitan Paralegal Association (January 2016)

Texas Animal Law Seminar 2015 (Houston); South Texas College of Law (Houston)
Produced all day event and speaker- “Ownership Issues in Animals,” “Texas Animal Cruelty Laws” (Accredited for Continuing Education for Attorneys, Paralegals, Veterinarians, Licensed Veterinary Technicians, Animal Control & Peace Officers); (October 2015)

“Animal Cruelty: Civil & Criminal Aspects of Texas Cruelty Laws;” N Harris County Bar Assoc. (2014)

“Legal Liability of Dog Owners;” Houston Area Legal Professionals (2014)

“Importance of Dog Ownership Rights;” Sheltie Day Seminar (2013)

“How Fido Can Get You in Trouble;” Houston Area Law Librarians CLE (2013)

“Legal Issues Arising from Domestic Pet Ownership;” Houston Bar Association (2013)

“Four Myths in Animal Law;” Houston Corporate Paralegal Association (2012)

“Breeder Bill & Legislative Update;” Texas Gulf Coast Vizsla Club (2011)

“Mandatory Spay Neuter Laws;” Houston Bar Association Animal Law Seminar (2011)

“Three Animal Law Case Studies;” Houston Metropolitan Paralegal Association (2011)

“Anatomy of an Animal Law Practice;” Houston Bar Assoc. Animal Law Section (2011)

“Legislative Update;” South Texas College of Law, Animal Law Class (Houston 2010)

“Hot Topics in Animal Law 2010;” Houston Bar Association Animal Law Section (2010)

“Injunctive Relief in Animal Cases;” Houston Metropolitan Paralegal Association (2009)

“Texas Dog Laws & their Effect on Hunters;” Texas Hunting Retriever Club (2009)

Texas Dog Law Seminar 2009 (Dallas); 2008 (Houston); 2007 (Austin); 2006 (Houston) -
Produced seminar & key speaker; Accredited by the State Bar of Texas, the Texas State Board of Veterinary Medical Examiners and Texas Animal Control Association for continuing education;

Texas Legislative Update--Animal Laws (Houston, Cleveland 2007)

MEDIA APPEARANCES & PUBLICATIONS

**Indicates cases handled by Ms. Anderson or legislation she was involved as an advocate.*

KXAN TV (September 20, 2021)(NBC Affiliate, Kala Washington) Austin; Fire at Ponderosa Kennel (Georgetown, Texas) kills 75 dogs—laws regarding kennels, on site overnight personnel, market value of dogs.

*KPRC TV (November 2018)(NBC Affiliate) Houston; “Beautiful reunion: Cancer patient Reunites with Dog after Lawsuit against Animal Rescue Group.” Ownership case involving dog that rescue group refused to return owner; dog returned to owner.

*KSAT TV (September 2018)(ABC Affiliate) San Antonio; “Veteran Overwhelmed with Joy after Reunion with Dog.” Ownership case involving dog that rescue group refused to return to 80 year old man/veteran; dog returned to owner.

KTRK TV (July 27, 2018) (ABC Affiliate) Houston; Groomer Loses Dogs & Legal Implications of value of dog/groomers not regulated.

*Texas Lawyer (April 5, 2016); “Supreme Court Decision Returns Beloved Dog to Owner”

*Houston Chronicle (April 4, 2016); “Texas Supreme Court Rules on Who Owns Houston Dog”

*Texas Tribune (April 2, 2016); “Texas Supreme Court Rules on Who Owns Dog”

*KBTX (CBS—Bryan/College Station, April 2016) License Revocation Trial of Kristen Lindsey,

- D.V.M. (veterinarian who shot cat in head with arrow and posted on Facebook (Austin, Texas)
- *KRIV TV (FOX)(11/16/15) Randy Wallace; Baytown Animal Shelter under review by City Council concerning recommendations by the subcommittee to the advisory board.
 - *Huffington Post (10/1/15), Arin Greenwood; “Vet Board Seeks to Revoke Dr. Lindsey’s License”
 - *Huffington Post (8/31/15), Arin Greenwood; “Texas Vet Who Killed Cat with Arrow Broke Rules, Faces Punishment,” result of Texas Veterinary Board investigation regarding Kristen Lindsey, D.V.M.
 - *Texas Monthly (7/8/15, John Lomax), Grand Jury No Bills Kristen Lindsey, D.V.M.—vet shot cat with bow and arrow through its head and then posted photo on Facebook with cat dangling from arrow bragging and suggesting she should get “vet of the year.”
 - *KPRC TV(NBC) (6/8/15) Third Collie Seizure resulting in Federal Bankruptcy judge ordering that Elaine Kmiec wear a GPS monitoring device.
- KPRC TV (NBC) (1/26/15); Dog Shot & Killed in local dog park, legal implications both civil and criminal.
- KTRK TV (ABC) (1/21/2015); “*The Problem of Dog Flipping,*” Lost dogs being sold by finders. Interview with Jeff Ehling.
- *KHOU TV (CBS), KTRK TV (ABC)(1/3/2015); Dog Ownership case in which a Siberian Husky owned by Lisa Landes was improperly impounded by Houston SPCA who allegedly “adopted” dog. Dog was returned to rightful owner (represented owner).
 - *KHOU TV, KTRK TV & KPRC TV (8/25/2014)-*Kara Kaufman v. Elaine Kmiec*—dog ownership case over three Collies that turned into a Federal Bankruptcy proceeding resulting in the seizure of 150 Collies (represented owner of 3 dogs against animal hoarder).
 - *Houston Chronicle (8/25/14)-Collie seizure in federal bankruptcy court; *Kara Kaufman v. Elaine Kmiec*.
- Radio News 92FM Houston (September, 16, 2014) Interviewed by Lana Hughes regarding pet trusts and other ways to care for pets after death in light of Joan Rivers leaving substantial funds to care for her dogs.
- KAVU News 25 (ABC)(February 2012) Victoria, Texas- Interviewed by Brianna Connor regarding legalities of dumping dead dogs euthanized by Cuero, Texas.
- KTRK TV (ABC)(August 2011) Houston- Interviewed by Jeff Ehling regarding Dog Ownership Case involving Beagles owned by Angela Hunt illegally taken/placed by a rescue organization.

KTRH News Radio (April 26, 2011). Kyle, Texas Law Banning Tethering of Dogs being considered by Texas Legislature.

*KPRC TV (NBC)(March 21, 2011) Houston, Texas. House Bill 998-Restrictions on Male Dogs 20+ Pounds--Interviewed by Brian Sasser re. pending bill in Texas Legislature.

*KRIV TV (Fox Affiliate) (October 2010) Houston; Breed Specific Legislation (Zeus featured); debate regarding banning of "Pit Bull" like dogs between Ms. Anderson and local plaintiff's lawyer.

*KRTK TV(ABC Affiliate) Houston; *Daisy Garza v. Wydell Dixon & Whiskerville Animal Sanctuary, Inc.*; Dog Ownership case (August 2010); Dixon & rescue organization refused to return the dogs of Ms. Garza; dogs returned to Ms. Garza (represented dog owner).

*Houston Chronicle, *Daisy Garza v. Wydell Dixon & Whiskerville Animal Sanctuary*; Dog Ownership (August 2010); (represented owner).

KTRH 740 AM (October, 2009) Houston; *U.S. v. Stevenson*; First Amendment case involving U.S. Supreme Court's consideration of hunting films of American Pit Bull Terriers.

KTRH 740 AM (2009) Houston; Return of Michael Vick to NFL despite his conviction for animal cruelty.

*Houston Chronicle (April, 2009); "*Pint Sized Yorkie at Center of Controversy*;" article and website coverage regarding *Allen v. Oster, et al*; pet ownership trial in which pet sitter refused to give back owner's Yorkie. (represented owner).

Houston Chronicle (December, 2008); *Lawyers Turn Career into Pet Project*; article about pursuit of animal law as a career featuring Zandra Anderson (Zeus featured).

*KTVT TV (CBS) Dallas, Texas (June, 2008); coverage regarding proposed Dallas animal ordinances.

*KBYG 1400 AM (December 2007) Texas Dog Law & Legislative Update, radio interview regarding new felony dog bite statute.

*KPFT 90.1 FM (October 2007) "Bless the Bullies"- New Texas Dog Laws, radio interview regarding breed specific legislation.

*KILE 1560 Radio "The Game" (August 2007); "Dog Fighting & the Impact of the Michael Vick Case" with Columnist Ken Hoffman --participated for one hour on talk radio program.

*KTRK TV (ABC)(August 2007); "New Dangerous Dog Laws & Responsible Dog Ownership;" Interviewed by Jessica Willey.

*KTRH 740 AM (August 2007); "House Bill 1355 & New Dangerous Dog Laws"-Interviewed by reporter Scott Braddock

- *KCCX Azteca Television (August 2007) Houston; “New Felony Dangerous Dog Laws” -- Interviewed by reporter Alvarador Ortiz.
- *KTRK-TV (ABC Houston Affiliate)(May 2007) Interviewed by Mya Shea regarding House Bill 1355 regarding new Dangerous Dog statute enacted by the Texas Legislature.
- *KPRC-Radio (May 2007)(Houston Talk Radio Station)--Interviewed for radio program regarding new Dangerous Dog statute enacted by the Texas Legislature.
- *KFDM TV (CBS, Beaumont affiliate)(March 8, 2007) “KFDM Listens”--Guest on evening, half-hour show about current topics of interest with viewer call-in’s. Dangerous Dog Bills then pending in the Texas Legislature.
- *KHCW-TV (Houston Local TV- Ch. 39)(February 8, 2007); My Space Case of Animal Cruelty (case of owner making his young pit bull attack a cat which he filmed and put on his My Space site)-Represented the dogs that were seized by the Houston SPCA and scheduled to die. Saved the dogs and got them awarded to rescue organization (represented dogs as friend of the court).
- *Houston Chronicle (February 9, 2007)
Article about the My Space Case of Animal Cruelty (represented dogs in Angleton in cruelty case).
- *KHOU TV(CBS)(January 2007)
Dog Attacks: Who Is to Blame? (regarding owner issues and enforcement of dog laws)--Interviewed by Brad Woodard regarding dog true behavior of pit bulls and relevant dog laws (Peggy, APBT was featured).

BAR ADMISSIONS

Supreme Court of Texas
 Supreme Court of Colorado
 United States District Court, Southern District of Texas

HONORARY LEGAL SOCIETIES

College of the State Bar of Texas (2006-present). Recognizes attorneys who are best trained in Texas based on continuing legal education hours, legal writing and teaching at seminars.
 Pro Bono College of the State Bar of Texas (2007-present). Recognizes attorneys who donate at least 75 hours of pro bono services per year.

ELECTED POSITION

State Bar of Texas, Council Member of the Animal Law Section (2020-2023)
 City Council, Hilshire Village, Texas (2005-2009)

APPOINTED POSITIONS

Hilshire Village Zoning Committee (2015-2016); Appointed by city to revamp ordinances including animal laws.

Subcommittee to the Baytown Animal Shelter Advisory Committee (2015); Appointed by the Baytown City Council to review the practices and procedures of the animal shelter to improve conditions and the live release rate through adoptions and other means.

PRO BONO SERVICES

Advocate for Responsible Animal Laws—Texas Legislature and Local Governments

Pro Bono College of the State Bar of Texas

Legal Counsel to Various Animal Rescue Organizations

Active in the Rescue and Placement of Abandoned or Lost Dogs

Provide Counseling/Advocate for Responsible Dog Ownership

Public Speaking/Media Appearances on Animal Related Issues & Responsible Dog Ownership

EDUCATION

Doctor of Jurisprudence; South Texas College of Law

Post Baccalaureate; Houston Baptist University

Bachelor of Arts; Trinity University, Cum Laude