

APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

Order of District Court of Appeal of the State of Florida Denying Petition for Writ of Certiorari (November 20, 2019)	1a
Order of District Court of Appeal of the State of Florida Denying Motion to Reverse Strike (November 7, 2019)	2a
Order of District Court of Appeal of the State of Florida for Filing Petition for Writ (October 14, 2019)	4a
Mandate from the Circuit Court of the Fifteenth Judicial Circuit of Palm Beach County (October 1, 2019)	5a
Opinion of the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (September 17, 2019).....	7a
Final Judgment of the County Court of the Fifteenth Judicial Circuit in and for Palm Beach County (May 18, 2018)	9a
Order of the County Court of the Fifteenth Judicial Circuit Denying Defendant's Motion to Continue (May 4, 2018).....	14a
Order on Citations of the County Court of the Fifteenth Judicial Circuit Court in and for Palm County (August 17, 2017)	16a

STATUTORY PROVISIONS

Relevant Statutory Provisions	19a
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APPENDIX TABLE OF CONTENTS (Cont.)

OTHER DOCUMENTS

Motion to Remove Label of Animal Cruelty and Response to Expert Specialty Visit (May 14, 2018)	27a
Motion to Visit Pets Filed in the County Circuit Court of the Fifteenth Circuit (April 27, 2018)	34a
Defendant's Motion to Prohibit Filed in the County Circuit Court of the Fifteenth Circuit (April 23, 2018)	36a
Defendant's Motion to Visit Pets (April 23, 2018)	38a
Initial Brief of Appellant (March 11, 2019).....	40a

**ORDER OF DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA DENYING
PETITION FOR WRIT OF CERTIORARI
(NOVEMBER 20, 2019)**

**IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA, FOURTH DISTRICT**

KAREN BISHOP,

v.

PALM BEACH COUNTY.

Case Number: 4D19-3152

Lower Tribunal Case(s): 502018CC004603

Civil Certiorari Petition from Palm Beach County

**ORDERED that the petition for writ of certiorari
is denied.**

WARNER, GROSS and CONNER, JJ., concur

ORDER OF DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA DENYING
MOTION TO REVERSE STRIKE
(NOVEMBER 7, 2019)

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA FOURTH DISTRICT,
110 SOUTH TAMARIND AVENUE,
WEST PALM BEACH, FL 33401

KAREN BISHOP,

Appellant/Petitioner(s),

v.

PALM BEACH COUNTY,

Appellee/Respondent(s).

Case No.: 4D19-3152

L.T. No.: 502018CC004603

BY ORDER OF THE COURT:

ORDERED that Petitioner's November 4, 2019 "Motion to Reverse Strike" is denied. Within five (5) days of service of this order, Petitioner shall file an appendix sufficient to review the issue presented as required by Florida Rule of Appellate Procedure 9.100 (g). The appendix must contain a copy of the circuit court's appellate decision, the record on appeal, and all briefs and appendices filed in the appeal to the

App.3a

circuit court. Failure to timely comply with this order will result in dismissal of this proceeding.

/s/ Lonn Weissblum
Clerk, Fourth District Court of Appeal

ORDER OF DISTRICT COURT OF APPEAL
OF THE STATE OF FLORIDA FOR
FILING PETITION FOR WRIT
(OCTOBER 14, 2019)

IN THE DISTRICT COURT OF APPEAL OF THE
STATE OF FLORIDA FOURTH DISTRICT,
110 SOUTH TAMARIND AVENUE,
WEST PALM BEACH, FL 33401

KAREN BISHOP,

Appellant/Petitioner(s),

v.

PALM BEACH COUNTY,

Appellee/Respondent(s).

Case No.: 4D19-3152

L.T. No.: 502018CC004603

BY ORDER OF THE COURT:

ORDERED that the Notice of Appeal filed in the Circuit Court is treated as a Petition for Writ of Certiorari. Petitioner shall file a petition and appendix in compliance with Florida Rule of Appellate Procedure 9.100 within twenty (20) days from the date of this order.

/s/ Lonn Weissblum
Clerk, Fourth District Court of Appeal

**MANDATE FROM THE CIRCUIT COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT
OF PALM BEACH COUNTY
(OCTOBER 1, 2019)**

**CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA, APPELLATE DIVISION**

KAREN BISHOP,

v.

PALM BEACH COUNTY.

**Circuit Appeal Case No.:
502018AP000062CAXXMB AY**

This cause having been brought to this Court by appeal, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that such further proceedings be had in said Cause in accordance with the opinion of this Court, and with the rules of procedure and Laws of the State of Florida.

WITNESS THE HONORABLE Judge, JAMES MARTZ Presiding Judge of the Appellate Division (Civil) of the Fifteenth Judicial Circuit and seal of the said Court at West Palm Beach, Florida on this day Tuesday, October 1, 2019.

App.6a

SHARON R. BOCK,
CLERK & COMPTROLLER
Palm/Beach County, Florida

By: /s/ Catherine Markisen
Deputy Clerk

cc: Karen Bishop
canyonforest@yahoo.com
canyonforest@gmail.com
Shannon Fox, Esq.
sxfox@pbcgov.org

OPINION OF THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA
(SEPTEMBER 17, 2019)

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA,
APPELLATE CIVIL DIVISION AY

KAREN BISHOP,

Appellants,

v.

PALM BEACH COUNTY,

Appellee.

Case No.: 50-2018-AP-000062-CAXX-MB

L.T. NO.: 50-2018-CC-004603-XXXX-MB

Appeal from the County Court in and for
Palm Beach County, Judge Sherri Collins

Before: MARTZ, CURLEY, and GOODMAN, JJ.

PER CURIAM.

AFFIRMED.

Martz, Curley, and Goodman, JJ., concur.

CONCURRING OPINION OF THE JUSTICES
MARTZ, CURLEY AND GOODMAN
(SEPTEMBER 17, 2019)

Affirmed/Reversed/Other: Affirmed

Per Curiam Opinion/Decision by: Per Curiam

CONCURRING:

/s/ James Martz

Date: 9-17-19

/s/ Joseph Curley

Date: 9-17-19

/s/ Jaimie Goodman

FINAL JUDGMENT OF THE COUNTY COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY
(MAY 18, 2018)

IN THE COUNTY COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA, CIVIL DIVISION RJ

PALM BEACH COUNTY,
a Political Subdivision of the State of Florida,

Petitioner,

v.

KAREN BISHOP,

Respondent.

Case No.: 50-2018-CC-004603-XXXX-MB

Before: Sherri L. COLLINS, Judge.

THIS CAUSE came before the Court on May 18, 2018 on Palm Beach County's (the "County") Petition for Emergency Hearing Pursuant to Florida Statute Section 828.073 (2017), and the Court, having received evidence, having examined the Court file, and being otherwise advised in the premises, it is hereby ORDERED AND ADJUDGED that:

1. On April 13, 2018, the Palm Beach County Sheriff's Office, with the assistance of the Palm Beach

App.10a

County Division of Animal Care and Control (the “Division”) executed a search warrant at Karen Bishop’s residence located at 1274 Frangipani Circle, Lantana, Florida 33462 the “Property”). During the execution of the warrant, seven cats, three dogs and three finches were lawfully seized and brought to the Division for medical care and sheltering.

2. Respondent Karen Bishop is the owner of the animals and maintained them at the Property.

3. The evidence indicated that at the time the animals were removed, Beatrice, a Scottish Terrier, had labored breathing, severely crushed eyes, a bilateral ear infection, severe hair loss and crusty inflamed skin. Sergeant Moulton noted that Beatrice’s heavy breathing continued throughout the time that he was in the house and that she did not move from her bed.

4. All of the animals smelled of urine and feces and the officers noted that urine and feces were present on the floor throughout the house.

5. Most of the animals had fleas and most of the cats also had ear mites, both of which are preventable and easily treatable.

6. The house was in disrepair, especially the back room where the ceiling tiles were missing and the insulation was falling from the attic. The interior of the roof showed evidence of water damage and possibly mold.

7. Detective Hansen testified that the house had no running water. According to the Boynton Beach Water Utility records placed into evidence, Ms. Bishop’s water utilities were shut off by the city on March 7, 2017, due to non-payment.

App.11a

8. During the officers' search of the home, no current medication or medical records were found to indicate that any of the animals had recently received veterinary care.

9. Based on the conditions, all animals that could be caught were removed from the residence and brought to the Division. Upon intake, Dr. Sayre, DVM, examined all of the cats and dogs. Dr. Sayre testified that Beatrice struggled for every breath, and that her eye, ear and skin conditions were painful. Dr. Sayre determined that Beatrice's conditions had likely persisted for months, if not years, and testified that she saw no evidence that Ms. Bishop had treated Beatrice's conditions.

10. Dr. Sayre testified that all of the animals suffered from a lack of basic care, a lack of clean living conditions, and from overcrowding. As a result, all of the animals suffered.

11. At the hearing, Ms. Bishop testified that she had been out of work for two years, which hindered her ability to care for the animals.

12. Ms. Bishop presented a veterinary record showing that Halley, a cat, was seen by a veterinarian on January 22, 2018, for an upper respiratory infection. However, the other animals had not been seen by a veterinarian in years.

13. The most concerning evidence of neglect included Ms. Bishop's failure to provide basic care such as treating Beatrice's eyes with artificial tears, trimming Chewy's nails and brushing Abbie's teeth. Such basic care would have cost Ms. Bishop very little but would have prevented the animals from suffering.

14. Based upon the evidence presented, the Court finds that Respondent failed to provide the dogs and cats at issue with proper and reasonable care and is unfit and unable to care for them. Therefore, the dogs and cats identified in the County's Petition are awarded to the permanent custody of Palm Beach County for an appropriate disposition.

15. At the conclusion of the hearing, Ms. Bishop voluntarily relinquished ownership of her three finches to the County as she did not wish to allow officers from the County to perform inspections to ensure the future well-being of the birds.

16. Pursuant to Section 828.073(4)(c)(3), Florida Statutes, Respondent is enjoined from the future possession or custody of any animal. If Respondent wishes to possess or have custody of any animal at any time in the future, she shall file a written request with this Court, shall send a copy of such request to the Division at the address provided in paragraph 17, and shall set the matter for an evidentiary hearing.

17. Pursuant to Section 828.073(4)(c)(2), Florida Statutes, Respondent shall pay the County the sum of Ten Thousand Four Hundred and Four Dollars and Twenty-Eight Cents (\$10,404.28) for the housing, medical, and miscellaneous expenses the County has incurred to care for the animals, for which let execution issue. Said amount shall be principal, which shall accrue interest at the statutory interest rate of 5.72% per annum or .000156712 per day. Payment shall be made payable to Palm Beach County Board of County Commissioners and shall be immediately delivered to the following address: Palm Beach County, Division of Animal Care and Control, c/o Director, 7100 Belvedere Road, West Palm Beach, FL 33411.

App.13a

18. The Court shall retain jurisdiction over this matter to assure compliance with this Final Judgment.

DONE AND ORDERED at West Palm Beach, Palm Beach County, Florida, on this 18th day of May, 2018.

/s/ Sherri L. Collins
Judge

ORDER OF THE COUNTY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT DENYING
DEFENDANT'S MOTION TO CONTINUE
(MAY 4, 2018)

IN THE COUNTY COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA, CIVIL DIVISION RJ

PALM BEACH COUNTY,

Plaintiff/Petitioner,

v.

KAREN BISHOP,

Defendant/Respondent.

Case No.: 50-2018-CC-004603-XXXX-MB

Before: Sherri L. COLLINS, Judge.

THIS MATTER came before the Court upon Defendant's Motion for Continuance of hearing set for May 18, 2018 at 10 am and this Court having considered the motion and the premises therein, is hereby Ordered and Adjudged that the motion is DENIED. Defendant has failed to provide good cause for why continuance is being sought or should be granted.

App.15a

DONE AND ORDERED, in West Palm Beach,
Palm Beach County, Florida this 4th day of May, 2018.

/s/ Sherri L. Collins
Judge

ORDER ON CITATIONS OF THE COUNTY COURT
OF THE FIFTEENTH JUDICIAL CIRCUIT COURT
IN AND FOR PALM COUNTY
(AUGUST 17, 2017)

IN THE COUNTY COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT IN AND FOR PALM BEACH
COUNTY, FLORIDA, DIVISION D

PALM BEACH COUNTY,

Plaintiff,

v.

KAREN BISHOP,

Defendant.

Case No.: 502017CO004337AXXXSB,
502017CO004343AXXXSB,
502017CO004339AXXXSB,
502017CO004340AXXXSB

Citation#: 047160, 047161, 047779, 047780

Before: Paul DAMICO, County Court Judge.

THIS CAUSE came before the Court for a trial on the above-cited citations on August 16, 2017. Based on the testimony of Karen Bishop and Sergeant Adam Moulton, I find that Ms. Bishop violated Section 31 of Palm Beach County Animal Care and Control Ordinance 98-22, as amended (the "Ordinance"). Ms.

Bishop refused to allow officers from the Palm Beach County Division of Animal Care and Control (the "Division") to inspect her animals and failed to provide proof that her animals have been vaccinated against rabies and have current Palm Beach County license tags. At the hearing, counsel for Palm Beach County indicated that rather than asking the Court to impose a fine in each of the four cases, the County would prefer to resolve the cases through an order requiring compliance with the Ordinance. Therefore, it is hereby ORDERED AND ADJUDGED that:

1. Ms. Bishop shall produce all of her animals on August 17, 2017, at 10:30 A.M. The inspection shall be performed at 1274 W. Frangipani Circle, Lantana, Florida 33462; however, officers from the Palm Beach County Division of Animal Care and Control (the "Division") shall not enter Ms. Bishop's home, unless invited. The purpose of the inspection shall be to ascertain the condition of the animals, determine the total number of animals owned or possessed by Ms. Bishop and confirm compliance with the Ordinance.
2. If Ms. Bishop complies with this Order, upon notice from counsel for Palm Beach County, no fines shall be imposed in the above cited-cases, and the Clerk of Court shall close these cases.
3. If Ms. Bishop fails to comply with the Order, counsel for Palm Beach County may file a motion for contempt seeking appropriate relief.

DONE AND ORDERED at Delray Beach, Palm Beach County, Florida, on this 16 day of August, 2017.

Signed and Dated Aug 16 2017.

App.18a

/s/ Paul Damico
County Court Judge

Copies provided to:

Karen Bishop
1274 W. Frangipani Circle
Lantana, Florida 33462

Shannon Fox, Esq.
sxfox@pbcgov.org

RELEVANT STATUTORY PROVISIONS

Florida Rules of Judicial Administration, 2.516(b)(1)

(b) Service; How Made.

When service is required or permitted to be made upon a party represented by an attorney, service must be made upon the attorney unless service upon the party is ordered by the court.

(1) Service by Electronic Mail (“e-mail”). All documents required or permitted to be served on another party must be served by e-mail, unless this rule otherwise provides. When, in addition to service by e-mail, the sender also utilizes another means of service provided for in subdivision (b)(2), any differing time limits and other provisions applicable to that other means of service control. A filer of an electronic document has complied with this subdivision if the Florida Courts e-filing Portal (“Portal”) or other authorized electronic filing system with a supreme court approved electronic service system (“e-Service system”) served the document by e-mail or provided a link by e-mail to the document on a website maintained by a clerk (“e-Service”). The filer of an electronic document must verify that the Portal or other e-Service system uses the names and e-mail addresses provided by the parties pursuant to subdivision (b)(1)(A).

(A) Service on Attorneys. Upon appearing in a proceeding, an attorney must serve a designation of a primary e-mail address and may designate no more than two secondary e-mail

addresses and is responsible for the accuracy of and changes to that attorney's own e-mail addresses maintained by the Portal or other e-Service system. Thereafter, service must be directed to all designated e-mail addresses in that proceeding. Every document filed or served by an attorney thereafter must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.

- (B) Exception to E-mail Service on Attorneys. Service by an attorney on another attorney must be made by e-mail unless excused by the court. Upon motion by an attorney demonstrating that the attorney has no e-mail account and lacks access to the Internet at the attorney's office, the court may excuse the attorney from the requirements of e-mail service. Service on and by an attorney excused by the court from e-mail service must be by the means provided in subdivision (b)(2) of this rule.
- (C) Service on and by Parties Not Represented by an Attorney. Any party not represented by an attorney may serve a designation of a primary e-mail address and also may designate no more than two secondary e-mail addresses to which service must be directed in that proceeding by the means provided in subdivision (b)(1) of this rule. If a party not represented by an attorney does not designate

an e-mail address for service in a proceeding, service on and by that party must be by the means provided in subdivision (b)(2) of this rule.

(D) Time of Service. Service by e-mail is complete when it is sent.

- (i) If, however, the e-mail is sent by the Portal or other e-Service system, service is complete on the date the served document is electronically filed.
- (ii) If the person required to serve a document learns that the e-mail was not received by an intended recipient, the person must immediately resend the document to that intended recipient by e-mail, or by a means authorized by subdivision (b)(2) of this rule.
- (iii) E-mail service, including e-Service, is treated as service by mail for the computation of time.

(E) Format of E-mail for Service. Service of a document by e-mail is made by attaching a copy of the document in PDF format to an e-mail sent to all addresses designated by the attorney or party.

- (i) All documents served by e-mail must be attached to an e-mail message containing a subject line beginning with the words "SERVICE OF COURT DOCUMENT" in all capital letters, followed by the case number of the proceeding in which the documents are being served.

- (ii) The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the name and telephone number of the person required to serve the document
- (iii) Any document served by e-mail may be signed by the “/s/” format.
- (iv) Any e-mail which, together with its attached documents, exceeds the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court must be divided and sent as separate e-mails, no one of which may exceed the appropriate size limitations specified in the Florida Supreme Court Standards for Electronic Access to the Court and each of which must be sequentially numbered in the subject line.

Florida Statute Section 828.073(2)

Animals in Distress 828.073 Animals found in distress; when agent may take charge; hearing; disposition; sale.—

- (2) Any law enforcement officer, any animal control officer certified pursuant to s. 828.27, or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under s. 828.03 may:

- (a) Lawfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or
- (b) Order the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location,

and shall file a petition seeking relief under this section in the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued. The court shall schedule and commence a hearing on the petition within 30 days after the petition is filed to determine whether the owner, if known, is able to adequately provide for the animal and is fit to have custody of the animal. The hearing shall be concluded and the court order entered thereon within 60 days after the date the hearing is commenced. The timeframes set forth in this subsection are not jurisdictional. However, if a failure to meet such timeframes is attributable to the officer or agent, the owner is not required to pay the officer or agent for care of the animal during any period of delay caused by the officer or agent. A fee may not be charged for filing the petition. This subsection does not require court action for taking custody and properly disposing of stray or abandoned animals as lawfully performed by animal control agents.

- (3) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of any animal pursuant to the provisions of this section shall have

written notice served, at least 3 days before the hearing scheduled under subsection (2), upon the owner of the animal, if he or she is known and is residing in the county where the animal was taken, in conformance with the provisions of chapter 48 relating to service of process. The sheriff of the county shall not charge a fee for service of such notice.

(4)

(a) The officer or agent of any county or of any society or association for the prevention of cruelty to animals taking charge of an animal as provided for in this section shall provide for the animal until either: 1. The owner is adjudged by the court to be able to provide adequately for, and have custody of, the animal, in which case the animal shall be returned to the owner upon payment by the owner for the care and provision for the animal while in the agent's or officer's custody;

Florida Statutes, Title VII, Evidence Chap 90, Evidence Code, 934.03—Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited—

(1) Except as otherwise specifically provided in this chapter, any person who:

(c) Intentionally discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

- (d) Intentionally uses, or endeavors to use, the contents of any wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through the interception of a wire, oral, or electronic communication in violation of this subsection;

Florida Rules of Appellate Procedure Rule 9.110(a)

RULE 9.110—APPEAL PROCEEDINGS TO REVIEW FINAL ORDERS OF LOWER TRIBUNALS AND ORDERS GRANTING NEW TRIAL IN JURY AND NON-JURY CASES

- (a) Applicability. This rule applies to those proceedings that
 - (1) invoke the appeal jurisdiction of the courts described in rules 9.030(a)(1), (b)(1)(A), and (c)(1)(A);
 - (2) seek review of administrative action described in rules 9.030(b)(1)(C) and (c)(1)(C); and
 - (3) seek review of orders granting a new trial in jury and non-jury civil and criminal cases described in rules 9.130(a)(4) and 9.140(c)(1)(C).

Florida Rules of Appellate Procedure Rule 9.200—The Record

- (b) Transcript(s) of Proceedings
- (4) If no report of the proceedings was made, or if the transcript is unavailable, a party may prepare a statement of the evidence or proceedings from the best available means, including the party's recollection. The statement shall

be served on all other parties, who may serve objections or proposed amendments to it within 10 days of service. Thereafter, the statement and any objections or proposed amendments shall be filed with the lower tribunal for settlement and approval. As settled and approved, the statement shall be included by the clerk of the lower tribunal in the record.

**Florida Rules of Appellate Procedure Rule 9.420—
Filing; Service of Copies; Computation of Time**

(d) Proof of Service. A certificate of service by an attorney that complies in substance with the requirements of Florida Rule of Judicial Administration 2.516(f) and a certificate of service by a pro se party that complies in substance with the appropriate form below shall be taken as prima facie proof of service in compliance with these rules. The certificate shall specify the party each attorney represents.

**MOTION TO REMOVE LABEL OF ANIMAL
CRUELTY AND RESPONSE TO
EXPERT SPECIALTY VISIT
(MAY 14, 2018)**

**IN THE COUNTY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
PALM BEACH COUNTY, FLORIDA**

PALM BEACH COUNTY, STATE OF FLORIDA,

Petitioner,

v.

KAREN L. BISHOP,

Respondent.

Case Number: 2018CC004603RJ

This Motion is filed today to remove the above label of animal cruelty which is an accessible public record case and listed in the Palm Beach County Clerk of Court e-portal as County Civil

50-2018-CC-004603-XXXX-MB

There has been no charge of animal cruelty; there has been no conviction of animal cruelty; Respondent here is not capable of animal cruelty.

On April 12, 2018 Petitioners, and Palm Beach County Animal Care and Control obtained a search warrant through malicious procurement as evidenced

by the number of pets listed on affidavit/search warrant which did not correlate to the number of pets in the home.

Petitioner's as above seized pets and obtained evidence through such method; thereby ensuring and sealing that due process is omitted based on the Amendments of the Constitution of the United States, specifically:

Amendment IV. The right of the people to be secure in their houses, papers, and effects, against unreasonable searches and seizures shall not be violated and on Warrant shall issue upon probable cause supported by Oath or affirmation, and particularly describing the place to be searched and the person or things to be seized. This Amendment makes no reference to false affidavits.

Amendment V. No person shall be held to answer for a capitol or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or the Militia, when in actual service in time of War or public danger; nor shall any person be subject to the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against oneself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. This Hearing is for the petitioners and by the petitioners rendering any Due Process null and void.

Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district

wherein the crime shall have been committed, which district shall have been previously ascertained by law, and be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of Counsel for one's defense. Legal protections of a court room setting are lacking.

Amendment VII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. It is believed that from the process of Search and Seizure beginning on April 13, 2018 and going forward there has been a blatant disregard of this Amendment.

Amendment IX. The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people. This will include all rights not listed extending also to my pets and does not imply these rights can be violated.

Prior to the malicious procurement of seizure of my pets and in July 2017 the Agency attempted to levy fines and put obstacles in my path by contacting Code Enforcement in the hopes of possibly declaring my property condemned due to "refuse" or "odor". It is possible the intent would have been to force me to leave my property under Code Enforcement authority. My property has most recently been cited as "strewn with garbage" when I do not have a shed and shed items were placed neatly on my back sidewalk. The intent here was possibly to portray myself as unable to care for myself and in that event Mental Health Services would need to be contacted; most likely this would involve an in-depth assessment with exorbitant

fees which is billable; and if not paid a lien could always be attached to the property here.

The above is not uncommon and much more common in cases of the elderly.

There are also fines, fees and court costs most probably involved here in what Respondent believes is an illegal search and seizure; as a matter of fact, insurmountable barriers can and will most likely be placed (as evidenced by the veterinary cardiology visit) due to the high cost of per diem exacted by the Agency exorbitant veterinary fees. Specialty examinations by veterinary cardiologists involve specialty equipment that on average has a cost between \$45,000.00 and \$66,000.00 to purchase; in Palm Beach County the average specialty visit is \$500.00, excluding the average specialty cardiology examination which is approximately \$350.00. Veterinary cardiologists accept a substantial amount of cash prior to specialty visit, do not accept checks, and will accept credit cards or Americare, a form of credit/insurance for a cardiac examination. This translates into a violation of Amendment VIII of the United States Constitution referencing exorbitant fees to be paid to release the pets.

Although not law in the state of Florida, I would ask the Court to look to the State of Washington law, where an affirmative defense (in regard to Petitioner accusation of animal cruelty/neglect and petition for custody based on veterinary cardiology telephonic testimony and other testimony), if established by a preponderance of the evidence by Respondent, that a veterinary and veterinary cardiology specialty visit was not arranged due to economic distress beyond the Respondents control (Washington State Legislature, RCW 16.52.207, (4)(2)(a), that affirmative defense is valid.

It is speculated that my pet in reference is an elderly pet who was seized. She was thrown into a container, set out in the hot sun alongside an animal care and control vehicle and tagged; then thrown into a truck by a callous animal care and control volunteer who could have cared less about my pet. This person refused to communicate with me as to how I take care of my pet. It was as if I was invisible.

I am the pet's mother/owner and caretaker and because of this dismissed due to pending DVM testimony; 23 days from the date of seizure the Agency transported my pet to a veterinary cardiologist where my pet's condition possibly or obviously changed as evidenced by the specialist consultation. In that event it is believed that because of the 23-day lapse without any loving owner contact my pet's condition changed due to mistreatment following the seizure, which placed enormous physical and emotional stress on my pet.

It can only be imagined what my pet felt to again be thrown into a container, put into a truck and taken to specialty visit where she knows no one and her pet mother is not present. She is then subjected to more testing and was probably terrified. As a matter of fact, pets should and do have their family members present when sophisticated testing as Petitioner mentions is performed.

The stress of impoundment is too much for my pets. It is common knowledge that the seizure of animals can result in injury and death by the Agency who claims to be rescuing. Amendment VI of the United States Constitution was completely disregarded in this instance. It is also common knowledge that once pets are seized they are subjected to disease if

not outright abuse or death at the hands of overzealous animal rescuers. For these reasons it is implored that the pets be returned to their home.

I am aware of the intentional infliction of emotional distress my pets are experiencing as I experience it almost daily myself; from initial Search and Seizure, or receiving a phone call from Animal Care and Control that cats have been trapped in the neighborhood and do they belong to me, to a refusal from the Agency to let me know how my pets are doing, or mail from the Criminal/Civil Court representing the Agency, to a Hearing where Respondent here is presumed guilty until proven innocent; and unlikely as evidenced by Petitioner labeling, case heard in a private setting within the control of Animal Care and Control, and with referenced Agency acting as Judge, jury, and executioner.

This is not Due Process as evidenced by the Amendments of the United States Constitution cited.

The year 2017 saw an increase in animal confiscation and seizures. In reality most pets are not returned home, and Respondent grave concern is that the pets will either be destroyed, sold for profit, or somehow disappear. It is appealed here that my pets be returned at Hearing and this Motion/Response is an extraordinary calling. The United States Congress makes laws, not counties, not animal care and control, not cities, not code enforcement or dog catchers.

Respondent other grave concern beyond pets who were seized through the above-mentioned methods and subjected to very severe physical and emotional stress for 35 days up to time of Hearing, is that there is an unrestrained and autocratic use of authority by

hired personnel representing the Agency. In countries such as China the above is a reality and a living nightmare and in the United States Respondent and pets are experiencing the same.

Although the United States Constitution, specifically Amendment V. Self-Incrimination. Double Jeopardy. Due Process is to ensure no depravation of life, liberty, or property without due process of law and nor shall private property be taken for public use, without just compensation, it is felt that Due Process is lacking. It is beseeched that the Court would consider what is written here, and return all pets to their rightful owner in the environment where they are loved and comfortable residing in.

Respectfully Submitted

/s/ Karen L. Bishop
1274 Frangipani Circle
Lantana, FL 33462

Copy Furnished to

Palm Beach County Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411

MOTION TO VISIT PETS FILED IN THE COUNTY
CIRCUIT COURT OF THE FIFTEENTH CIRCUIT
(APRIL 27, 2018)

IN THE COUNTY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT
PALM BEACH COUNTY, FLORIDA

PALM BEACH COUNTY STATE OF FLORIDA,

Petitioner,

v.

KAREN L. BISHOP,

Respondent.

Case Number: 2018CCOO4603

This Motion is filed today by Karen L. Bishop
called the respondent to visit pets

Facts:

- Pets that include 3 canines, 7 felines and 3 finches were seized by Animal Care and Control (Agency) on April 13, 2018.
- The Agency has not allowed visitation of my pets and provides brief information.
- The pets have not been seen by me, the owner since April 13, 2018.

- The Agency is becoming more difficult in providing any information on the pets.
- On several occasions the Agency for no apparent reason has disconnected my telephone call after waiting more than one hour and close to two hours to speak with an Agency representative.

Therefore, permission to visit the pets as the Court allows is requested by this Motion.

Respectfully Submitted

/s/ Karen L. Bishop
1274 Frangipani Circle
Lantana, FL 33462

Copy Furnished to

Palm Beach County Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411

DEFENDANT'S MOTION TO PROHIBIT
FILED IN THE COUNTY CIRCUIT COURT
OF THE FIFTEENTH CIRCUIT
(APRIL 23, 2018)

IN THE COUNTY CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT

STATE OF FLORIDA,

Plaintiff,

v.

KAREN L. BISHOP,

Defendant.

Case Number: 2018CC004603

Comes now Karen L. Bishop, called defendant in
a Motion to Prohibit

The actual/accidental transfer, sale, or killing of
pets

Facts;

- Defendants pets were seized from the home at 1274 Frangipani Circle, Lantana FL 33462 by Palm Beach County Animal Care and Control on April 13, 2018.
- Pets remain seized by Animal Care and Control of Palm Beach County.

App.37a

- Defendant known as Karen L. Bishop files this Motion today to ensure safekeeping and prohibition of above until pets are returned home.

Respectfully Submitted

/s/ Karen L. Bishop

Copy Furnished to

Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411

**DEFENDANT'S MOTION TO VISIT PETS
(APRIL 23, 2018)**

**IN THE COUNTY COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT**

STATE OF FLORIDA,

Plaintiff,

v.

KAREN L. BISHOP,

Defendant.

Case Number: 2018CC004603

Comes now Karen L. Bishop, called defendant in
a Motion to Visit Pets

Facts;

- Defendants pets were seized from the home at 1274 Frangipani Circle, Lantana, FL 33462 by Palm Beach County Animal Care and Control on April 13, 2018.
- Pets remain seized by Animal Care and Control of Palm Beach County.

Defendant known as Karen L. Bishop files this Motion today to see and visit with pets until returned home.

App.39a

Respectfully Submitted

/s/ Karen L. Bishop

Copy Furnished to

Animal Care and Control
7100 Belvedere Road
West Palm Beach, FL 33411

**INITIAL BRIEF OF APPELLANT
(MARCH 11, 2019)**

**IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN AND FOR
PALM BEACH COUNTY, FLORIDA**

KAREN BISHOP,

Appellant,

v.

PALM BEACH COUNTY,

Appellee.

Appellate Case No. 50-2018-AP-000062-CAXX-MB
County Case No. 50-2018-CC-004603-XXXX-MB

On appeal of a final order of the County Court
In And For Palm Beach County, Florida

Karen Bishop
710 Hampshire, Apt. #1
Holbrook, AZ 86025
canyonforest@yahoo.com
Pro Se Appellant
Prepared With Assistance of Counsel

PREFACE

This Initial Brief is filed on behalf of Appellant, KAREN BISHOP. In this brief, Appellant shall be referred to as "Appellant" or "Ms. Bishop".

Appellee, PALM BEACH COUNTY, shall be referred to as "Appellee" or "County".

References to the Record on Appeal are abbreviated as follows:

(R.____) =

Record on Appeal, with citation to the appropriate page number.

*Citations are to the consecutive PDF page number of the Record.

STATEMENT OF THE CASE AND FACTS

This is an appeal of a May 21, 2018 Final Judgment rendered in the county court on the County's petition brought pursuant to section 828.073, Fla. Stat. (2017) ("Animals found in distress").

This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1)(A) and section 26.012(1), Florida Statutes (2018).

A. Petition for Emergency Hearing

On April 19, 2018, the County filed a "Petition For Emergency Hearing Pursuant to Florida Statute Section 828.073." (R. 6). The County requested a hearing date to determine the custody of 13 animals (dogs, cats, and birds) allegedly in Ms. Bishop's possession. (R. 6).

The County alleged that it had received numerous complaints regarding the animals and that Ms. Bishop had refused to allow officers access to her home. (R. 6-7). The County alleged that it had previously removed 66 animals from Ms. Bishop's home in 2007. (R. 7). The County stated that it had issued citations to Ms. Bishop in May and June of 2017 and that she had agreed to produce all her animals to demonstrate compliance with the County Ordinance. The County stated that Ms. Bishop produced two dogs and a cat and indicated they were the only animals she owned. (R. 7).

The County stated it received a complaint on April 11, 2018 of over 30 animals living in the home and that it executed a search warrant on April 14, 2018 that revealed 8 cats, 3 dogs, and 3 finches. (R. 8). The County removed the animals. (R. 8). The County stated that the subsequent veterinarian's examination revealed the animals to be in poor health, including one dog in heart failure and other animals with untreated wounds, fleas, ear mites, and broken teeth. (R. 8).

On April 23, 2018, Ms. Bishop filed a Motion To Visit Pets, asking to visit the pets the County had seized. (R. 10). Also on April 23, 2018, Ms. Bishop filed a Motion To Prohibit, in which she asked the Court to prohibit the transfer, sale, or killing of her pets until they were returned home. (R. 11).

B. Response and Further Proceedings

On April 27, 2018, Ms. Bishop filed a Response to [Petition For] Emergency Hearing. (R. 12). Ms. Bishop recounted her version of events from 2007 when her animals were seized, as well as her version of the events of May of 2017. Ms. Bishop explained that

much of what the Animal Care and Control Agency had alleged was untrue.

Ms. Bishop also recounted an incident on or about March 23, 2018 where she paid a pet sitter to check in on her pets for a few days while she took a trip to Washington, D.C. (R. 15). Ms. Bishop claimed the pet sitter made a report to Animal Care and Control after Ms. Bishop left a negative report about her to the petsitting agency. (R. 16). Ms. Bishop said that she had some unrepaired hurricane damage to her house. (R. 16). Ms. Bishop stated that she takes basic care of her pets. (R. 16). Ms. Bishop requested the return of her pets. (R. 17).

On April 27, 2018, Ms. Bishop filed another Motion To Visit Pets. (R. 19).

On May 4, 2018, Ms. Bishop filed a Motion To Reschedule Hearing requesting that the hearing scheduled for May 18, 2018 be rescheduled for one week later. (R. 21). The trial court entered an Order Denying Defendant's Motion To Reschedule Hearing the same day. (R. 22). The court stated that Ms. Bishop had failed to provide good cause for why the continuance should be granted. (R. 22).

On May 9, 2018, the County filed a Request to Take Judicial Notice. (R. 23). The County requested that the trial court take notice of the Order On Citations that was entered in the four separate county court case files in which the County had proceedings against Ms. Bishop. The particular August 16, 2017 Order On Citations ordered that Ms. Bishop produce all her animals on August 17, 2017 for inspection to ascertain their condition. (R. 23-24).

On May 14, 2018, Ms. Bishop filed a “Motion to Remove Label of Animal Cruelty And Response to Expert Specialty Visit” arguing that the seizure of her pets was malicious and violated the Constitution. (R. 28).

The trial court entered an order allowing the veterinarian to appear by telephone at the upcoming hearing. (R. 33).

C. Hearing

The hearing took place as scheduled on May 18, 2018 from 10:00 AM to 1:40 PM. (R. 36). Although there was no recording of the hearing other than the 75 minute audio recording Appellee collected for themselves, a written log of the events is as follows:

Ms. Bishop arrived early and was handed a packet of evidence from the opposing attorney. The prior case finished, and Ms. Bishop was called to sit at the table. The witness box was in front of Ms. Bishop, more towards the left. Opposing counsel sat to the right.

The Judge opened the Hearing and placed Ms. Bishop under oath. The Judge asked if Ms. Bishop had anyone with her, and Ms. Bishop replied no. The Judge asks Ms. Bishop “how are you”, to which Ms. Bishop replied that she was very distressed regarding her pets, and that she there to get her pets back.

The Judge called opposing counsel Fox, who stood up in front of the Judge, stated there were seized animals in possession of Palm Beach County Animal Care and Control and that animal care and control was there seeking custody of all of Ms. Bishop’s animals. Opposing counsel named all of Ms. Bishop’s animals

and stated that unfortunately the dog Beatrice had passed away. No one had previously informed Ms. Bishop of this, and it was a great shock to her.

Opposing counsel stated that the County was seeking a judgment for expenses of over \$10,000. Opposing counsel stated that Animal Care and Control has had numerous complaints regarding Ms. Bishop. Opposing counsel omitted the fact that the same caller had called Animal Care and Control multiple times. Opposing counsel stated that records from the City of Boynton Beach which are public knowledge showed that Ms. Bishop's water had been shut off for nonpayment. Ms. Bishop interrupted and told the judge she had the water turned back on, but it continually leaked as Ms. Bishop had a major plumbing problem that is not easily fixed and expensive to repair. There was no comment from the court, and this fact went ignored.

The County's witnesses Tirella and Davis (who provided evidence for search warrant) were en route to the hearing, and had every intention of attending the hearing, but they had a car accident on the way.

The trial court reviewed the packet of evidence, and Ms. Bishop reviewed it as well. Ms. Bishop was asked whether she objected to this evidence being entered into the court file. Ms. Bishop made several objections:

- Ms. Bishop objected to photographs from April 12, 2007 which are mixed in with photographs from April 13, 2018. The trial court overruled the objection.
- Ms. Bishop objected to the County's request for an over \$10,000 judgment, as she had noth-

ing to compare it to. The trial court overruled the objection.

- Ms. Bishop objected to the order entered by Judge Damico, as this occurred over 9 months prior. The trial court overruled the objection.
- Ms. Bishop objected to the water shut off records, as she did not have the knowledge if this is confidential information or not. The trial court overruled the objection.
- Ms. Bishop objected to the specialty cardiac visit, as she had nothing to compare this with. The trial court overruled the objection.

The trial court mentioned it was aware that several of Ms. Bishop's animals are a lot older than the petition for custody complaint states.

Opposing counsel Fox called the first witness, Ms. Quinones, who was not placed under oath. Ms. Quinones, in full animal care and control uniform, stated she was called to Ms. Bishop's house on April 12, 2007 for numerous cats. Ms. Quinones stated Ms. Bishop's house was in deplorable living condition. Ms. Quinones stated Ms. Bishop surrendered the cats. Ms. Quinones was turned and facing Ms. Bishop and making direct eye contact and smiling. Ms. Bishop asked Ms. Quinones what does April 12, 2007 have to do with today? Ms. Quinones did not answer. Ms. Bishop asked Ms. Quinones if Ms. Bishop surrendered her pets, why charges were dropped? Ms. Quinones did not answer. Ms. Bishop stated she did not have any other questions because this does not make sense. Ms. Quinones left the witness box and the Judge stated: "Ms. Bishop, I am not going to hold this against you". Ms. Bishop thanked the judge

while Ms. Quinones, glaring at Ms. Bishop with a very angry look, went to her seat in back of Ms. Bishop.

The next witness was Ms. Jarret, in full animal care and control uniform. She was not placed under oath. When questioned by opposing attorney Fox, Ms. Jarret stated she visited Ms. Bishop's house April 1, 2018, she received a call and talked to Ms. Bishop about it at the time of the visit. Ms. Jarret stated it was felt this contact by the pet sitter was due to retaliation. Ms. Jarret stated she took pictures, and that all Ms. Bishop's animals seemed to be in very good condition according to her scale. Ms. Jarret was referring to the animals Hailey, Abbie, and Chewy, who Ms. Bishop brought outside as they were up to date on vaccinations, except Hailey, who was a few months behind. Ms. Jarret complained about an ammonia smell, and stated Ms. Bishop would not allow her into Ms. Bishop's house. Ms. Jarret stated she checked Cobra (might be Python, unsure) and noted there has been a lot of past animal care and control contact. Ms. Jarret stated she then insisted on coming inside of Ms. Bishop's house but Ms. Bishop would not allow it due to Ms. Bishop's Fourth Amendment rights. Ms. Jarret did not cite this and this was Ms. Bishop's reasoning. Ms. Bishop did not bring her other pets out, as they had not had their vaccinations; Ms. Jarret would have cited an infraction for this.

On Ms. Bishop's questions to Ms. Jarrett, Ms. Bishop asked her "you know, this overpowering ammonia that you refer to, how do you measure this overpowering odor?" Ms. Jarrett asked "what do you mean?" Attorney Fox got up and attempted to block the witness from Ms. Bishop's view and object to the question. The judge overruled the objection. Attorney

Fox was obstructing Ms. Bishop's view of the witness and blocking her very important question. Ms. Bishop then proceeded and asked again what Ms. Jarrett uses to measure the allegedly "overpowering" odor. Ms. Jarrett responded: "nothing". Ms. Bishop agreed, nothing, and had no further questions for her.

The next witness, Sayres, DVM, was not placed under oath. She stated on questioning by attorney Fox that she has worked for Animal Care and Control for over 20 years. Dr. Sayres stated that all of Ms. Bishop's animals were in extremely poor condition. Abbie had flaky skin, and all "stunk like urine and feces". There was constant and obsessive reference to these terms. Dr. Sayres stated the pets were exposed to overcrowding. Dr. Sayres stated all pets "got better" except for Beatrice, whose eyes looked terrible, her ears, she was wheezing and "gasped for every breath". Dr. Sayres was making direct eye contact with Ms. Bishop and smiling. Dr. Sayres stated that Beatrice went to a cardiac specialty visit, and was put on some meds. However, a few days later she passed away. Dr. Sayres stated she examined her lungs and they were like plastic, and must have been like that for years. She stated Beatrice was 13 years old.

On questioning, Ms. Bishop asked Dr. Sayres if she worked at PetSmart also. Dr. Sayres did not answer, but she did or does, as she had vaccinated Ms. Bishop's dogs Beatrice and Abbie as recently as three years ago at PetSmart. Ms. Bishop asked Dr. Sayres what exactly was wrong with Abbie's skin. Dr. Sayres stated that Abbie was not being bathed, but Ms. Bishop showed her the stickers Ms. Bishop placed on her calendar when her dogs were bathed, and flea repellent applied. Dr. Sayres stated Abbie

could not possibly have been bathed. Ms. Bishop showed Dr. Sayres the shampoo, and Dr. Sayres did not respond.

Ms. Bishop asked Dr. Sayres what she thought should have been done about Beatrice's eyes, as she stated Beatrice had not been diagnosed with dry eye syndrome, and has never been treated. Dr. Sayres responded, "well, there are meds, and these include artificial tears." Ms. Bishop showed Dr. Sayres the vial of artificial tears. Dr. Sayres initially looked shocked, but quickly changed her facial expression. Ms. Bishop also showed Dr. Sayres the saline that Ms. Bishop instilled into Beatrice's eyes in the AM and PM. Ms. Bishop told Dr. Sayres that in the past, Ms. Bishop had been giving Beatrice cyclosporine eye drops but they were very expensive and now had to change to artificial tears. (Beatrice did not make tears, she had not made tears since 2013; the fluid that caused tears was backing up into her ears; her veterinarian told Ms. Bishop that Beatrice had conditions that were due to genetics).

Dr. Sayres looked again at the drops, looked at Ms. Bishop, and smiled. Dr. Sayres stated that Ms. Bishop could not have possibly have put drops into Beatrice's eyes. Ms. Bishop asked her what new medication did she give to Beatrice. Dr. Sayres stated two cardiac medications. Ms. Bishop showed Dr. Sayres the heart medication from Wolf Creek Ranch that Ms. Bishop purchased for Beatrice (and also provided to Abbie) to keep them protected from heartworm and to strengthen Beatrice's heart. These are natural holistic medications, DVM formulated, and had worked very well for Ms. Bishop in the care of her dogs. Ms. Bishop showed Dr. Sayres the check-off system Ms.

Bishop used for AM and PM administration of eye drops and holistic medications. Dr. Sayres had nothing to say and just looked at the paper.

Ms. Bishop asked Dr. Sayres what medicines Bea was allergic to. Dr. Sayres did not know. Ms. Bishop was shocked that Dr. Sayres would give these medications and not know how Beatrice would tolerate them, in view of the fact Beatrice passed away 2 days later, after the new medicine was initiated. The court could see the look on Ms. Bishop's face when she was notified of these events. What is more shocking is that Ms. Bishop was the pet owner, and no one asked if they could do this to her dog. At this time, the opposing lawyer Fox was standing up and attempting to block Ms. Bishop's view of the witness. Ms. Bishop attempted to ask the questions she felt necessary to ask, as Ms. Fox continued with the blocking in an effort to intimidate Ms. Bishop. The court did not ask Ms. Fox to refrain.

Ms. Bishop asked Dr. Sayres, in view of the wheezing, what bronchodilator she gave to Beatrice. Dr. Sayres did not have an answer. Ms. Bishop showed Dr. Sayres the vial of "LungGold", a DVM formulated natural holistic bronchodilator, that Ms. Bishop used. No one paid attention to it or took it when Ms. Bishop's animals were taken from their home.

Ms. Bishop asked Dr. Sayres when did Beatrice go to the specialty cardiac visit. Dr. Sayres stated she did not know, and that she was not there. Dr. Sayres did not mention the fact that the kennel she works in swelters to more than 122 degrees. Ms. Bishop asked Dr. Sayres if Beatrice had an echocardiogram. Dr. Sayres stated she did not know, and she was not there. Ms. Bishop asked Dr. Sayres whether Beatrice

had sedation for an echocardiogram or any tests at the specialty visit. Dr. Sayres stated that she did not know, and she was not there. Ms. Bishop asked Dr. Sayres when Beatrice died, and whether she died naturally. Dr. Sayres stated she thought Beatrice died Monday, May 7th, but she does not know.

Dr. Sayres could not provide any lab results for the pets or for Beatrice, could not provide a hemoglobin test indicating anemia from fleas, could not provide a serum albumin which would determine hydration and skin conditions, and could not provide a picture of a worm or a flea. Dr. Sayres stated she is the veterinarian there with 20 years of experience, but repeatedly stated she was not there for relevant events. Dr. Sayres smiled an evil smile. Ms. Bishop had no more questions for Dr. Sayres.

The next witness, Detective Hansen, was not placed under oath. Det. Hansen, in full uniform, was introduced as the detective who "helped Adam Moulton get a search warrant." Det. Hansen stated Ms. Bishop's back porch had an open ceiling with insulation hanging down. Det. Hansen stated the environment was not clean and the water had been turned off. Det. Hansen stated Ms. Bishop had 4 or 3 cats (she did not remember which) in a back room, and it was not a very nice room. Det. Hansen stated she had contacted one of Ms. Bishop's veterinarians, but they did not give her a lot of information.

Ms. Bishop asked Det. Hansen what were they discussing when she was outside talking with the neighbor next door. Det. Hansen had gone from neighbor door to neighbor door within the neighborhood on her search warrant day. Det. Hansen stated that she was "within the curtilage". Det. Hansen was not within the curti-

lage, as Ms. Bishop told her. Det. Hansen stated the neighbor told her Ms. Bishop had a tarp on her roof for 10 years. Ms. Bishop saw the neighbor that Det. Hansen was talking to. Ms. Bishop asked Det. Hansen if she was aware that the neighbor did not live in this area consistently, and that he was the neighbor's son and gone more often than not. Det. Hansen refused to answer and refused to look at Ms. Bishop. Ms. Bishop asked Det. Hansen whether she really believed a tarp was on the roof for 10 years. Det. Hansen replied yes. Ms. Bishop told Det. Hansen that the tarp was put on by FEMA in September of 2017. Ms. Bishop had no other questions for Det. Hansen.

The next scheduled witness, Dr. Maggie Machen Lamy DVM, was to testify by phone. However, the court determined there was no one to put her under oath, therefore she could not give testimony. This seemed odd, as no one else was put under oath except Ms. Bishop.

The next scheduled witness, Sergeant Moulton, was not placed under oath. Sergeant Moulton, in full animal care and control uniform, stated on questioning from opposing lawyer Fox that he is a specially trained animal care and control officer, as he attended a 40-hour class in Colorado. Sergeant Moulton stated he has received numerous calls and complaints over the years. Sergeant Moulton stated that he got a complaint in April of 2017, was asked if Ms. Bishop contacted him regarding the complaint he stated "yes, she did". Sergeant Moulton stated he recently "got a tip" and while glaring at Ms. Bishop stated he "got a search warrant".

Sergeant Moulton stated that most people "welcome the help" he has to offer, but not Ms. Bishop.

Moulton stated that Ms. Bishop is "not normal". Sergeant Moulton stated that on search warrant day he saw numerous cats, running all over; stated that Beatrice was in her pet bed but didn't really move when he came by her and that was not normal; and stated there was a leaking roof in the porch area and a bucket under the leak collecting water. Sergeant Moulton stated "that just is not normal". Sergeant Moulton stated that he has been to Ms. Bishop's house "99 times and counting". Sergeant Moulton stated that Ms. Bishop is "very combative".

On questioning, Ms. Bishop asked Sergeant Moulton if he knew that Beatrice did not see or hear that well. Sergeant Moulton replied that he did not know that. Ms. Bishop asked Sergeant Moulton how credible his tip was and did he think his witness was. Sergeant Moulton repeated the question back and did not answer it. Ms. Bishop again asked Sergeant Moulton how credible did he think the tipster was, and Moulton again repeated the question back and did not answer it. Sergeant Moulton was stalling, and the court interrupted Ms. Bishop's line of questioning stating the witness was not there, and it did not matter. Ms. Bishop had copies of their background checks and had questions on this and the search warrant, but this was suppressed by the court.

Ms. Bishop asked Sergeant Moulton when did Beatrice die. Sergeant Moulton stared into his phone and kept looking at his phone. Sergeant Moulton then stated that maybe it was Monday, May 7th. Ms. Bishop asked him why he did he not tell her that Beatrice died. Sergeant Moulton said he did not have to tell her. Sergeant Moulton then became arrogant, stating "Sorry about your dog ma'am" but he was

insincere. Ms. Bishop's last question to Sergeant Moulton was, on search warrant day, why did Moulton come to her and ask "where are all the cats". Sergeant Moulton did not answer.

Next occurred a review of evidence that Ms. Bishop presented regarding home repairs, professional pest control, past, present and future income; receipts, evidence of financial status. Ms. Bishop was not seeing the Lung Gold/Artificial tears entered into evidence, or the pictures of Primo water she had obtained for her home, or the calendar with dates marked for baths/ her personal check off system, and flea topical application. Ms. Bishop presented evidence of Iams pet food, topical flea applicant, shampoo, and Heart Worm Formula and diatomaceous earth dust for application to the house (natural pest control formula and that also can be used to dust pets with as well).

Ms. Bishop only had one veterinarian receipt from 2013 for Beatrice, and one from 2018 for Hailey. Ms. Bishop could not find the others, and was too upset. However, Animal Care and Control has records of recent pet vaccinations as Ms. Bishop had purchased tags from them. Attorney Fox and Sergeant Moulton looked over the evidence Ms. Bishop had brought and talked among themselves. Ms. Bishop was crying at this time, too upset over her dog Beatrice and what had happened to her. The court asked Ms. Bishop if she needed to go outside and get a break. The court attempted to provide Ms. Bishop tissues, but she did not want their tissues.

Attorney Fox made a slight effort to determine if Ms. Bishop could have her pets back, and she reviewed income with Ms. Bishop. There would be enough to take adequate care of them, but the court interrupted

any chance of this. Ms. Bishop went on to say how she was going to take an out of state employment contract, which she provided evidence of. Attorney Fox began to argue with Ms. Bishop on the additional items required for the contract. Attorney Fox then went on to say “no . . . you won’t”, in a nefarious and bitter manner regarding Ms. Bishop’s future plans. Attorney Fox and Sergeant Moulton smile, similar to the evil smile of the animal care and control veterinarian. The court then announced that Attorney Fox had questions for Ms. Bishop.

At this point, Attorney Fox turned on her tape recorder for 75 minutes, and she and Sergeant Moulton can be heard whispering over the tape. Sergeant Moulton seems to be holding the tape. Attorney Fox asked why Ms. Bishop took Hailey to the vet in February 2018, and Ms. Bishop explained that Hailey felt hot, she had a fever. The vet diagnosed her with a respiratory infection. Attorney Fox demanded to know why Hailey was not isolated. However, there were no instructions to do this.

Attorney Fox asked why Bea did not go to the veterinarian. However, after she told Ms. Bishop that Beatrice had died and then informed Ms. Bishop of her plans to obtain a money judgment greater than \$10,000.00 Ms. Bishop could not locate more recent vet records for Beatrice. Attorney Fox was informed that Ms. Bishop had holistic medications that were working well. There were times Ms. Bishop was out of the holistic medications due to inability to afford them, but this was not more than 2 weeks at any time. When Ms. Bishop’s pets were seized, these medications were not taken with the pets. Ms. Bishop mentioned these medications to Det. Hansen when

she was at Ms. Bishop's house on the search warrant. Det. Hansen she told Ms. Bishop that she does not tell her what to put in her reports.

Attorney Fox then asked about Beatrice's hair loss and whether it was getting worse or better. Ms. Bishop explained that Beatrice had ongoing problems with hair loss, and Ms. Bishop had to keep up with it by applying Richards shampoo (holistic) and also applying diatomaceous earth in addition to flea topicals. Ms. Bishop did give her medication for deworming, however it was outdated although it did provide a small effect. Ms. Bishop pointed out that financial conditions had not been good, and that she had just received her first social security check, which would now help her greatly in better pet care.

Ms. Bishop stated to Attorney Fox and the court at least several times that she was not perfect, and pleaded for her pets to be returned. Sergeant Moulton stated that Ms. Bishop was supposed to make home repairs, and that is why he gave Ms. Bishop his number and "she didn't do anything". Ms. Bishop pointed out that the social security payments had just been initiated, and the April payment was delayed and when Ms. Bishop received the security payment she made the repairs that he was talking about. Ms. Bishop showed evidence of the repairs and did not see the added cost of materials list from Home Depot on the evidence list.

Attorney Fox went on to talk about Chewy and that he was "covered with fleas". Yet she could not show a flea, or a picture of a flea. She could not provide evidence of anemia that is indicative of a severe flea infestation. Nor could she provide any lab results to back up what she was alleging.

Chewy is a lap dog that was constantly sitting with Ms. Bishop. Attorney Fox then asked Ms. Bishop how often Ms. Bishop is home with the pets, inferring that she had abandoned them. Attorney Fox smiled. She then stated she had no further questions.

The court asked Ms. Bishop if she had anything more to say. Ms. Bishop told the court she loves her animals and was there to get them back. The court stated it was awarding custody of the animals to the county but was giving the birds back because the court did not hear any evidence about the birds. Attorney Fox stated the birds were in bad living conditions. Ms. Bishop was panicked, and asked if her animals would be auctioned off. They stated it would be a few weeks. Attorney Fox exchanged a hateful look with Ms. Bishop, as if to tell her not to appeal.

Attorney Fox then went on to state: "Your honor, we want to be awarded the judgement for ten thousand dollars." The court gladly awarded the judgment. Attorney Fox then asked, "Your honor, we don't want her to have any more animals" and the court awarded this as well, telling Ms. Bishop she cannot have any more pets in Palm Beach County. The judge informed Ms. Bishop that if she does, she will be arrested.

Attorney Fox wanted to make this a nationwide ruling, and the court told her the court only has jurisdiction in Palm Beach County. In awarding the birds back to Ms. Bishop however, Ms. Bishop was to have Animal Care and Control visits four times a year to monitor the birds. Ms. Bishop told the court Animal Care and Control was never coming into Ms. Bishop's house again.

The judge then looked at Attorney Fox and stated, "Oh, she is abandoning the birds." Ms. Bishop corrected the court and let them know it was a surrender, because the average Animal Care and Control officer (which the room was full of) is between 180 to 250 pounds; and it did not seem logical to have two Animal Care and Control officers with a total weight of 450 pounds to monitor 3 finches every 4 months who most likely did not weigh one ounce total.

D. Final Judgment

On May 21, 2018, the county court judge rendered a Final Judgment. (R. 41). The trial court recited the history of the proceedings, including the seizure of the animals and the alleged poor condition of the animals at that time. (R. 36-37). The trial court found that Ms. Bishop's home was in a state of disrepair, and also cited the testimony of Detective Hansen that Ms. Bishop's home lacked running water. (R. 37). The court found that Ms. Bishop failed to have the animals treated by a veterinarian and failed to take certain basic actions that would have cost her very little but would have prevented the animals from suffering. (R. 37-38).

The trial court in the Final Judgment:

- (1) found that Ms. Bishop failed to provide the dogs and cats in her possession with proper and reasonable care, and that she was unfit and unable to care for them;
- (2) awarded permanent custody of the animals to the County;
- (3) enjoined Ms. Bishop from future possession or custody of any animal without written

application to, and approval of, the court; and

- (4) ordered Ms. Bishop to pay the County \$10,404.28 in costs pursuant to section 828.073(4)(c)(2) for the costs incurred to care for the animals.

(R. 37-38).

Ms. Bishop filed the Notice of Appeal on May 21, 2018. (R. 40). Ms. Bishop filed an Emergency Motion to Stay on July 11, 2018.

SUMMARY OF THE ARGUMENT

The trial court erred in finding Ms. Bishop failed to provide reasonable care, awarding custody of her animals to the County, and awarding the County a judgment where Ms. Bishop was deprived of due process in the hearing and the process.

The trial court erred in awarding the County a judgment for its expenses where the trial court's finding that Ms. Bishop was unable or unfit to adequately care for the animals was erroneous. The award of expenses to the County in the instant case should not stand where supported by an erroneous finding. The trial court's conclusion that Ms. Bishop was unable or unfit to adequately care for the animals was erroneous for the reasons explained herein. It is unjust, and constitutes fundamental error, to allow the County to receive an award of expenses based upon its unlawful seizure.

The trial court abused its discretion in denying Ms. Bishop's Motion For Continuance of the hearing. Ms. Bishop did not cause the need for a continuance.

The denial of a continuance caused great prejudice and injustice to Ms. Bishop and the grant of a one-week continuance would have caused little or no prejudice to the County.

This Court should reverse and remand.

STANDARD OF REVIEW

Issue I: This Court should review the trial court's grant of the County's petition to seize Appellant's animals *de novo* as an issue of law.

Issue II: This Court should review the trial court's award of a judgment for expenses to the County *de novo* as an issue of law where the judgment is unsupported because the County's removal of Ms. Bishop's animals was involuntary and unjust. *Pet Fair, Inc. v. Humane Society of Greater Miami*, 583 So. 2d 407 (Fla. 3d DCA 1991).

Issue III: Generally, the decision whether or not to grant a motion for continuance is within the discretion of the trial court. *See Strand v Escambia County*, 992 So. 2d 150, 154 (Fla. 2008); *Cargile-Schrage v. Schrage*, 908 So. 2d 528, 529 (Fla. 4th DCA 2005).

ARGUMENT

I. The Trial Court Erred in Finding Ms. Bishop Failed to Provide Reasonable Care, Awarding Custody of Her Animals to the County, and Awarding the County a Judgment Where Ms. Bishop was Deprived of Due Process in the Hearing

The artistic symbol of the law is often depicted as Lady Justice, with a set of scales suspending from one hand to measure the support of a case, and its

opposition. The scales represent a weighing of the evidence, and these scales lack a foundation in order to signify that evidence should stand on its own. Lastly, Lady Justice has often been depicted wearing a blindfold. This blindfold is to represent impartiality, and the ideal that justice will be applied fairly regardless of standing, power, and wealth. Here, Ms. Bishop was deprived of due process symbolized by Lady Justice in the hearing and in the process whereby the County removed her animals.

Law

The Fourth Amendment applies to section 828.073:

Section 828.073 provides for the removal of neglected or mistreated animals and the eventual transfer of custody to a Humane Society if the owner is deemed unable or unfit to adequately provide for them. *See Fla. Stat. §§ 828.073(1)(a) & (4)(c)2 (1997).* The statute further provides for the injunction of the owner from further possession or custody of other animals if warranted. *See Fla. Stat. § 828.073(4)(c)4.* Accordingly, because section 828.073 contemplates the loss of an unfit owner's right to possession or custody of his or her animal due to the neglect or mistreatment of that animal, we find that an action brought pursuant to this section constitutes a forfeiture action and is protected by the Fourth Amendment.

Brinkley v. County of Flagler, 769 So. 2d 468, 471 (Fla. 5th DCA 2000).

A weighing of the evidence would translate into both parties having the ability to submit evidence.

But much of Ms. Bishop's evidence was suppressed regarding the repairs to her dwelling, the background of the pet sitter who did not show up at the hearing, the background of the animal care and control officer who seized Ms. Bishop's pets, and a signed contract showing Ms. Bishop's future income in addition to her present income of \$1,620.00 monthly at the time of the hearing.

A weighing of the evidence was tilted heavily more towards the Appellee, as the trial court erroneously overruled Ms. Bishop's evidentiary objections. Appellee presented pictures from 2007 that the Appellee mixed in with pictures of April 2018, thereby providing the illusion of more than 30 cats, when Ms. Bishop had 7 cats seized by animal care and control. Ms. Bishop's objection to these old photos being presented as new evidence was overruled by the trial court. Ms. Bishop's objected to more than \$10,000.00 in charges by Animal Care and Control as there was no itemized statement and nothing to compare these charged money damages to; this objection was overruled. Ms. Bishop's objection to a court order placed nine months prior was overruled. Ms. Bishop's objection was placed regarding the submission of confidential water records as there was not any way to know at the time whether this confidential information can be submitted or not; Ms. Bishop objected to the specialty cardiac visit as there was nothing to compare the visit to, but this was overruled by the Court.

This Hearing was not impartial as symbolized by the blindfold Lady Justice wears. Impartiality would not permit one party to tape record another without their knowledge or consent in the courtroom. However, the trial court allowed the Appellee to audio record

Ms. Bishop's testimony for over 75 minutes, with the court asking leading questions for the sole purpose of Ms. Bishop incriminating herself, while maintaining almost constant eye contact with the Appellee during the audio recording. The court and the Appellee are well-known to each other, contributing to the severe bias of this Hearing.

As can be ascertained by the events described above, due process was severely lacking in this Hearing. The trial court did not inform Ms. Bishop of her right to have a tape recording of the Hearing, and yet permitted the opposing counsel to audio record more than 75 minutes of the Hearing. Should the opposite have occurred (Ms. Bishop taping as opposed to opposing counsel taping), the court would have certainly taken note.

The sword that Lady Justice carries signifies that the law is final and swift, as in placing Ms. Bishop's pets in the custody of Animal Care and Control without acknowledging her ability to take over their care, and then placing Ms. Bishop's pets in a 122-degree inferno where several died.

The court painted a picture of Ms. Bishop as a lazy pet owner, when in fact the court did not acknowledge the perseverance required to locate a financially secure position. The court stated in its judgment that Ms. Bishop had not worked in 2 years, but the court did not mention how Ms. Bishop had done extensive volunteering with no reimbursement (other than a social security pension which began in March of 2018) in order to gain skills for her upcoming position as evidenced by the signed contract.

The court took extensive testimony regarding Ms. Bishop's water shut off but did not acknowledge the fact that Ms. Bishop had obtained non-traditional sources of water for Ms. Bishop's pets and residence.

The pets were seized based on false testimony to a criminal court by Adam Moulton in order to gain access to Ms. Bishop's residence and seize Ms. Bishop's pets. The search warrant states there were 30 cats which is not valid, 4 dogs which is not valid, and 4 birds which is not valid. The search warrant stated that 6 months earlier there were more than 50 cats in Ms. Bishop's residence, which contradicts what Adam Moulton wrote in his animal care and control reports, and these facts were greatly exaggerated by the malicious intent of the animal care officer and his attorney.

The Search Warrant was issued Ex Parte with no input from Ms. Bishop, the owner of the pets that were seized. The search warrant did not describe how the pet sitter had abandoned her job after being paid and did not return. The search warrant does not describe how the pet sitter contacted Animal Care and Control more than one week after she took the position; she made contact with this agency in retaliation because she was reported to the agency for her work habit and concealment of her background. The search warrant mentions none of this, and the civil court further suppressed these important facts, precluding justice.

The Warrant violated Amendment IV of the Bill of Rights, which ensures that a United States citizen has the right to be secure in persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated and no warrants shall issue but

upon probable cause supported by Oath or Affirmation and particularly describing the place to be searched and the person or things to be searched.

Adam Moulton described animals in distress, when in fact only Beatrice suffered from a chronic condition being treated with LungGold and Heartworm formula to keep her breathing easy and comfortable. Adam Moulton denied he was willing to work with Ms. Bishop in the return of her pets, although Ms. Bishop has this on text, and initially was not going to take her pets, although he was advised to do so by a telephone call to the opposing counsel shortly after his arrival to Ms. Bishop's residence on April 13, 2018. Adam Moulton then claimed Beatrice was wheezing, which he does not have a tape recording of, and changes his initial decision to work with Ms. Bishop in the return of her pets.

Beatrice was comfortable in her pet bed the morning Adam Moulton showed up at Ms. Bishop's residence to take the pets. Beatrice had just finished her biggest meal of the day which was breakfast, and was sleeping soundly when Moulton arrived to take her from her home.

Effects in Amendment IV of the Bill of Rights extends to pets who can be termed effects; the issuance of a search warrant deemed this Appellant's liberties less secure causing demoralization, humiliation, and terrifying the pets that were seized. Furthermore this Search Warrant alleges animal cruelty and unlawful containment which is invalid.

This also violates Amendment V of the Constitution of the United States where this Search attempted to place Ms. Bishop as a defendant to be a witness

against one's self when one has the constitutional right to not incriminate one's self; and authorized law enforcement (who had guns whereas Ms. Bishop was unarmed) to go from neighbor to neighbor in Ms. Bishop's neighborhood, photographing her pets, the interior of her home, searching through her desk and papers and her property seeking incriminating evidence, and then stating she was "manipulative";

Ms. Bishop was stalked, harassed, demeaned and humiliated by Animal Care and Control of Palm Beach County over the course of eleven years. In October 2017, Ms. Bishop was given a complete copy of all documentation that Animal Care and Control has ever recorded with respect to Ms. Bishop and pets (dating back from 4/12/2007) and there were numerous and many untruths and shocking inaccuracies. As of late (4/1/2018), Ms. Bishop's residence was documented as "abandoned" and "strewn with garbage" which is invalid. Any "history" that Animal Care and Control alleges is of their own accord because the Agency itself has a history of being outside of Ms. Bishop's property on many occasions, sitting in their trucks "observing" and "documenting".

The Agency has contacted Ms. Bishop's family members and neighbors, as well as Code Enforcement, and more recently a pet sitting agency, either to collect or offer derogatory and incriminating evidence regarding Ms. Bishop. Living here in the United States, the above is an atrocity to humanity; including the issuance of the Search Warrant and Seizure. With the initiation of the court Hearing, there was no charge of animal cruelty; there has been no conviction of animal cruelty; Appellant here is not capable of animal cruelty.

On April 12, 2018 Petitioners, and Palm Beach County Animal Care and Control obtained a search warrant through malicious procurement as evidenced by the number of pets listed on affidavit/search warrant which did not correlate to the number of pets in the home.

Appellee as above seized pets and obtained evidence through such method, thereby ensuring and sealing that due process was omitted based on the Amendments of the Constitution of the United States, specifically:

Amendment IV. The right of the people to be secure in their houses, papers, and effects, against unreasonable searches and seizures shall not be violated and on Warrant shall issue upon probable cause supported by Oath or affirmation, and particularly describing the place to be searched and the person or things to be seized. This Amendment makes no reference to false affidavits.

Amendment V. No person shall be held to answer for a capitol or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or the Militia, when in actual service in time of War or public danger; nor shall any person be subject to the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against oneself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. This Hearing was for the Appellee and by the Appellees, rendering any Due Process null and void.

Amendment VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of Counsel for one's defense. Legal protections of a court room setting are lacking. In fact, the court permitted opposing council to audio record 75 minutes of testimony in an attempt to gain favor in a criminal court, without informing Ms. Bishop, without Ms. Bishop's knowledge or consent to the audio recording.

Amendment VII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted. It is believed that from the process of Search and Seizure beginning on April 13, 2018 and going forward there has been a blatant disregard of this Amendment.

Amendment IX. The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people. This will include all rights not listed extending also to Ms. Bishop's pets and does not imply these rights can be violated.

Prior to the malicious procurement of seizure of Ms. Bishop's pets and in July 2017 the Agency attempted to levy fines and put obstacles in Ms. Bishop's path by contacting Code Enforcement in the hopes of possibly declaring Ms. Bishop's property condemned due to "refuse" or "odor". It is possible the intent would have been to force Ms. Bishop to leave

her property under Code Enforcement authority. Ms. Bishop's property has most recently been cited as "strewn with garbage" when she did not have a shed and shed items were placed neatly on her back sidewalk. The intent here was possibly to portray Ms. Bishop as unable to care for herself and in that event Mental Health Services would need to be contacted; most likely this would involve an in-depth assessment with exorbitant fees which is billable; and if not paid a lien could always be attached to the property here.

The above is not uncommon, and much more common in cases of the elderly.

There are also fines, fees, and court costs involved here in what Appellant believes is an illegal search and seizure; as a matter of fact, insurmountable barriers were placed (as evidenced by the veterinary cardiology visit) due to the high cost of per diem exacted by the Agency for exorbitant veterinary fees. Specialty examinations by veterinary cardiologists involve specialty equipment that on average has a cost between \$45,000.00 and \$66,000.00 to purchase. In Palm Beach County, the average specialty visit is \$500.00, excluding the average specialty cardiology examination which is approximately \$350.00. Veterinary cardiologists accept a substantial amount of cash prior to specialty visit, do not accept checks, and will accept credit cards or Americare, a form of credit/insurance for a cardiac examination. This translates into a violation of Amendment VIII of the United States Constitution referencing exorbitant fees to be paid to release the pets, had the court issued a release of pets back to Ms. Bishop, the Appellant. In lay terms, this is called extortion.

In view of the circumstances and submitted evidence, and although not law in the state of Florida, Ms. Bishop asked the Court to look to the State of Washington law, where an affirmative defense (in regard to Appellee accusation of animal cruelty/neglect on Appellant, and Appellee petition for custody based on veterinary cardiology telephonic testimony and other testimony), if established by a preponderance of the evidence by Appellant, that a veterinary and veterinary cardiology specialty visit was not arranged due to economic distress beyond the Appellant's control (Washington State Legislature, RCW 16.52.207, (4)(2)(a), that affirmative defense is valid). In this instance, the court ignored the Washington statute and takes a punitive and cruel stand rather than acknowledging the evidence and looking to this Washington statute.

23 days from the date of seizure, the Agency transported Ms. Bishop's pet to a veterinary cardiologist where her pet's condition changed as evidenced by the specialist consultation. In that event, it is believed that because of the 23-day lapse without any loving owner contact Ms. Bishop's pet's condition changed due to mistreatment following the seizure, which placed enormous physical and emotional stress on Ms. Bishop's pet. The opposing counsel concealed the fact that Ms. Bishop's pets went to a facility with no air conditioning, causing daily temperatures to rise greater than 122 degrees, hastening the death of Ms. Bishop's dog. It can only be imagined what Ms. Bishop's pet felt to again be thrown into a container, put into a truck and taken to a specialty visit where she knows no one and her pet mother is not present. She was then subjected to more testing, and most likely sedation although this was denied; with this

kind of testing Ms. Bishop's pet was probably terrified. Pets should and do have their family members present when sophisticated testing as Appellee mentions is performed.

The stress of impoundment was too much for Ms. Bishop's pets. It is common knowledge that the seizure of animals can result in injury and death by the agency who claims to be rescuing. Amendment VI of the United States Constitution was completely disregarded in this instance. It is also common knowledge that once pets are seized they are subjected to disease if not outright abuse or death at the hands of animal care and control.

Ms. Bishop was aware of the intentional infliction of emotional distress her pets were experiencing as Ms. Bishop experienced it almost daily herself From initial Search and Seizure, or receiving a phone call from Animal Care and Control that cats have been trapped in the neighborhood and do they belong to Ms. Bishop, to a refusal from the Agency to let Ms. Bishop know how Ms. Bishop's pets are doing, or mail from the Criminal/Civil Court representing the Agency, to a Hearing where Appellant here is presumed guilty until proven innocent; and unlikely as evidenced by Appellee labeling, case heard in a private setting within the control of Animal Care and Control, and with referenced Agency acting as Judge, jury, and executioner.

This is not Due Process under the Amendments of the United States Constitution cited. The year 2017 saw an increase in animal confiscation and seizures. In reality most pets are not returned home, and Ms. Bishop's pets were either destroyed, lost or sold for profit by Animal Care and Control.

Ms. Bishop's pets were seized and subjected to very severe physical and emotional stress for 35 days up to time of Hearing, and there was an unrestrained and autocratic use of authority by Animal Care and Control where they think they are above the law, and not of the law. In countries such as China, the above is a reality and a living nightmare and in the United States Appellant and pets are experiencing the same.

Although the United States Constitution, specifically Amendment V (Self-Incrimination, Double Jeopardy, Due Process) is to ensure no depravation of life, liberty, or property without due process of law and nor shall private property be taken for public use, without just compensation, it is felt that Due Process is lacking, hence the writing of this Appeal.

On appeal I am not asking for a new Hearing, and am asking for all surviving animals to be returned back to me, including the birds. This was an in-duress surrender and included Ms. Bishop's 3 finches (as of the present, 45% of Ms. Bishop's pets have been killed, others auctioned or adopted off)

[sic] asking for Ms. Bishop's antique bird cage with antique cover that was stolen from Ms. Bishop's house (under the guise of a search warrant) to be returned; this includes all items inside the antique bird cage, such as food and water cups and driftwood perches that were given to me as a gift;

In their search warrant raid, animal care and control broke furniture in Ms. Bishop's house, one antique chair cracked at the bottom from a person standing on the chair, request fair market value replacement as the court would award.

Asking for Ms. Bishop's rights as a pet owner to be restored without threat of arrest, as I believe this to be unconstitutional to inform me whether I can have pets on my/ Ms. Bishop's property or not;

Asking for the ten thousand dollar judgment to be reversed; it is unclear how several of Ms. Bishop's pets went from very good condition to terrible conditions in the space of one week and required extensive treatments, unless animal care and control is desperate for a ten thousand dollar judgment.

It does not make sense, other than the fact that Animal Care and Control is a desperate and greedy agency, in need of repairs and most probably will use the judgment for its own selfish ends;

Asking that the label of "animal cruelty hearing" be changed to "animal custody hearing". Opposing council Fox assigned this to be an animal cruelty hearing however I have not been convicted of animal cruelty. This lawyer is not a prosecutor, she does not assign charges, and therefore the appropriate designation of this hearing should be assigned as "animal custody hearing" and not "animal cruelty hearing".

In summary, and according to section 828.03:

(6) If the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he or she is able and fit to have custody of and adequately provide for the animal.

This burden was met by demonstrating Ms. Bishop's past financial distress and the improvements that I made in Ms. Bishop's residence subsequent to

the hearing and as evidenced by the receipts; the court refused to consider the home repairs made in spite of letters and receipts produced; the court refused to acknowledge evidence of vaccines and tags on Abbie and Chewie, refused to acknowledge veterinary receipts for Hailey; the court and opposing council mocked the fact that I would be taking a new position as evidenced by a signed contract. The court and the opposing council do not have a crystal ball as to the outcome of this contract and stated they "didn't think so" regarding Ms. Bishop's impending move. The court did not consider it took me five months to receive a pension which would have been adequate until Ms. Bishop's new position started.

In view of the above I am asking the Appeals Court to overturn this lower court ruling in its entirety and to return Ms. Bishop's pets back to me, their rightful owner.

II. The Trial Court Erred in Awarding the County a Judgment for Its Expenses Where the Trial Court's Finding That Ms. Bishop Was Unable or Unfit to Adequately Care for the Animals Was Erroneous

The trial court erred in awarding the County a judgment for its expenses where the trial court's finding that Ms. Bishop was unable or unfit to adequately care for the animals was erroneous.

In *Pet Fair, Inc. v. Humane Society of Greater Miami*, 583 So. 2d 407, 408 (Fla. 3d DCA 1991), the trial court actually found that Pet Fair was able to adequately care for the animals that had been seized. However, section 828.073(4)(a)(1) of the statute provided that the pet owner essentially must then

pay to get possession of its animals back. *Pet Fair, Inc.*, 583 So. 2d at 408 n.1. The owner elected not to get its animals back and the DCA held that the judgment for expenses was not based on any sustainable grounds where the owner elected not to buy back its property and the pets had been wrongly taken in the first place. *Id.* at 408. The DCA stated that “the award of a judgment which has no legal foundation—when, in other words, the plaintiff has recovered upon a non-existent right—constitutes fundamental error which we are required to notice and correct.” *Id.* at 409.

Similarly, the trial court’s award of expenses to the County in the instant case should not stand where supported by an erroneous finding. The trial court’s conclusion that Ms. Bishop was unable or unfit to adequately care for the animals was erroneous for the reasons explained above. It is unjust, and constitutes fundamental error, to allow the County to receive an award of expenses based upon its unlawful seizure.

This Court should reverse the Final Judgment’s award of expenses to the County.

III. The Trial Court Abused Its Discretion in Denying Ms. Bishop’s Motion for Continuance of the Hearing Where Ms. Bishop Did Not Cause the Need for a Continuance, the Denial Caused Injustice to Ms. Bishop in the Presentation of Her Case, and a Continuance Would Not Have Prejudiced the County

The trial court abused its discretion in denying Ms. Bishop’s Motion For Continuance of the hearing. Ms. Bishop did not cause the need for a continuance.

The denial of a continuance caused great prejudice and injustice to Ms. Bishop and the grant of a one-week continuance would have caused little or no prejudice to the County.

The Fourth DCA has recognized the relevant considerations in evaluating a party's request for a continuance:

In considering whether a trial court abused its discretion in failing to continue a hearing, we consider "whether the denial of the continuance creates an injustice for the movant; whether the cause of the request for continuance was unforeseeable by the movant and not the result of dilatory practices; and whether the opposing party would suffer any prejudice or inconvenience as the result of a continuance."

Stusch v. Jiruska, 188 So. 3d 874, 878 (Fla. 4th DCA 2016) (quoting *Ryan v. Ryan*, 927 So. 2d 109, 111 (Fla. 4th DCA 2006)).

Florida appellate courts have reversed the denial of a motion for continuance in situations such as where a party sought the continuance in order to obtain new counsel. *See Rice v. NITV, LLC*, 19 So. 3d 1095 (Fla. 2d DCA 2009). The Fourth DCA has also reversed the denial of a motion for continuance where the request was based on a lack of preparation and discovery that was not the fault of the movant.

In *Fleming v. Fleming*, 710 So. 2d 601, 602 (Fla. 4th DCA 1998), the final hearing in a dissolution of marriage proceeding was reset on February 28, 1996 due to confusion over the scope of the proceeding. The former wife's attorney was disbarred on August

29, 1996, approximately three months prior to the scheduled trial. *Fleming*, 710 So. 2d at 602. The former wife obtained a new attorney who filed a motion for continuance one month prior to the trial. *Id.* The motion stated that the previous attorney had not conducted proper discovery and that a continuance was necessary to cure the discovery defects and properly prepare for trial. *Id.* The trial court denied the motion and proceeded with the final hearing. *Id.*

On appeal, the Fourth DCA considered the three factors described in *Stusch* above. The Fourth DCA found that the situation caused an injustice to the former wife regarding the former husband's financial records that so diminished her ability to prepare her case that the trial court had erred in denying the continuance. *Id. See also Stusch*, 188 So. 3d at 877-878 (reversing and stressing that father who lived out of country was entitled to due process and fundamental fairness where trial court failed to continue contempt hearing despite father's letter expressing desire to appear by phone due to a medical condition that prevented him from flying).

The factors mentioned above weigh in Ms. Bishop's favor in this case. Ms. Bishop, a pro se litigant, requested an additional week in order to adequately present her case and defend against the untrue allegations contained in the County's Petition. (R. 21). Ms. Bishop filed the Motion to Reschedule Hearing several weeks in advance of the scheduled hearing, and not at the last minute. (R. 21). The denial of this reasonable and modest request for continuance caused injustice to Ms. Bishop because she could not adequately prepare her case for hearing. The cause of the request was unforeseeable and the record does not show that

it was the result of any dilatory practices by Ms. Bishop. Finally, the County undoubtedly would not have been prejudiced by the grant of Ms. Bishop's Motion For Continuance where the request sought only an additional week.

Notably, the trial court's "Order Denying Defendant's Motion to Continue" simply states that Ms. Bishop "failed to provide good cause for why continuance is being sought or should be granted." (R. 22). The trial court failed to evaluate the factors discussed in *Fleming* and find that a continuance would have caused prejudice to the County. Again, a modest one-week continuance in favor of a pro se litigant clearly would not have resulted in prejudice to the County. The trial court's order denying Ms. Bishop's request for a continuance was an abuse of discretion under the circumstances of this case.

This Court should reverse the denial of Ms. Bishop's request for a continuance, and remand for a new final hearing.

CONCLUSION

The trial court made the errors described above as a result of The County of Palm Beach and Palm Beach County Animal Care and Control's failure to cooperate and comply with the rules of discovery, while simultaneously pushing forward with its attempt to obtain summary judgment.

WHEREFORE Appellant, KAREN BISHOP, respectfully requests that this Court reverse the Final Judgment on appeal and remand for the reasons set forth above.

App.79a

Respectfully submitted,

/s/ Karel Bishop

710 Hampshire, Apt. #1

Holbrook, AZ 86025

canyonforest@yahoo.com

Prepared With Assistance of Counsel