

**IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION**

JANE/JOHN DOE,

Petitioner,

v.

MIAMI-DADE COUNTY ANIMAL
SERVICES DEPARTMENT,

Respondent.

PETITION FOR WRIT OF MANDAMUS

1. Petitioner Jane/John Doe respectfully requests that the Court issue a writ of mandamus directing Respondent Miami-Dade County Animal Services Department (“Animal Services”), including its Interim Director, Lorna Mejia (the “Director”), and its Enforcement Supervisor, Sean Gallagher (the “Enforcement Supervisor”), to perform non-discretionary acts under Section 5 of the Miami - Dade County Code of Ordinances to protect two Huskies being abused by their owner, Christian Souto. Specifically, Petitioner respectfully requests that Animal Services “seek custody of the animal.”

JURISDICTION, PARTIES, AND VENUE

2. Petitioner Jane/John Doe is over the age of 18 and has standing to bring this action pursuant to Section 5-4 of the Miami - Dade County Code of Ordinances (“Section 5-4”) as a person who has complained to Animal Services about cruelty to animals and has been denied a clear legal right pursuant to Section 5-4(c). Petitioner is a resident of Miami-Dade, and lives in very close proximity to the Huskies and the sites of their abuse.

3. Jane/John Doe has filed this action anonymously because Jane/John Doe fears retaliation from Souto, who has been abusing his dogs and has posted a video of himself threatening people who have witnessed and complained of his misconduct. In a video Souto posted on social media relating to the multiple complaints he has received from witnesses to his abuse of his dogs, Souto mimics the sound of bullets firing from his weapon into the body of a person who comes knocking on his door unannounced. Among other things, he warns: “Someone gonna get gut,” “gunned down.” “Don’t fuck around and get fucked up.”¹ See, e.g., *Matthews v. City of Maitland*, 923 So. 2d 591, 595 (Fla. 5th DCA 2006) (disclosure of citizens’ identities who are supporting lawsuit against city inappropriate because it “would subject them to possible intimidation or coercion” and have “a chilling effect on their rights”).

4. This Court has original jurisdiction to issue a writ of mandamus to the Miami-Dade County Animal Services Department pursuant to Florida Constitution, Article V, § 5(b).

STATEMENT OF FACTS

5. Souto owns two dogs, “Bae” and “Papi,” an adult and a puppy, both of which are Huskies (the “Huskies”).

6. Petitioner filed a complaint with Animal Services detailing Souto’s continuous abuse of the Huskies and, upon information and belief, is just one of numerous people who have done so. Petitioner is aware that at least three persons have provided Animal Services with affidavits describing Souto’s repeated and continuous abuse of the Huskies. **Exhibits A-C.** Petitioner also is aware of and has seen videos of Souto abusing the Huskies. Those videos have been posted to social media and include at least one video made and posted by Souto himself.²

¹ <https://www.facebook.com/animalloversrescuellc/videos/580002163140188/>

² <https://ne-np.facebook.com/animalloversrescuellc/videos/282294066750915/>; <https://wsvn.com/news/local/miami-dade/sw-miami-dade-resident-says-videos-she-recorded-show-neighbor-mistreating-2-huskies-owner-says-hes-training-dogs>

7. In addition to his admission on social media, Souto has appeared on television at least once and admitted that he is the person referenced in the videos and that the dogs in the videos are the Huskies. *Supra* note 2.

8. Petitioner is a citizen who cannot stand by idly while the Huskies continue to suffer from Souto's abuse. As noted above, Petitioner has standing as a person who has complained to Animal Services about cruelty to animals and has been denied a clear legal right pursuant to Section 5-4(c).

9. Section 5-4(c)(1)-(2) state in pertinent part:

- 1) Whenever **any person complains of cruelty to animals** or upon independent observation of an Animal Control Officer, an Animal Control Officer **will** attempt to ascertain and investigate whether the facts alleged in the complaint or observation constitute an act of cruelty to animals.
- 2) If the Animal Control Officer has reason to believe, subsequent to his investigation, that an act of cruelty to animals **may have been** committed, the Department **will** immediately institute appropriate proceedings against the person responsible for the act of cruelty, issue the appropriate civil violation notice, and/or, where appropriate, seek custody of the animal as provided in Section 828.073, Florida Statutes. Nothing herein contained shall restrict a private citizen from instituting an appropriate proceeding pursuant to the Florida Statutes. Nothing contained in this section shall restrict enforcement by criminal penalty pursuant to Chapter 828, Florida Statutes.

(Emphasis added).

10. Thus, Animal Services and the Animal Control Officers (*i.e.* the Director and Mr. Gallagher) owe a nondiscretionary duty to “any person who complains of cruelty to animals” to “attempt to ascertain and investigate whether the facts alleged in the complaint or observation constitute an act of cruelty to animals” and “immediately institute appropriate proceedings against the person responsible for the act of cruelty, issue the appropriate civil violation notice, and/or where appropriate, seek custody of the animal” if “an act of cruelty to animals may have been

committed.” Petitioner’s right to have Animal Services take the acts required of it under Section 5-4 is clearly established pursuant to the plain language of Section 5-4(c)(1)-(2).

11. The uses of the term “will” in Section 5-4(c)(1)-(2) with respect to the acts that Animal Services must take establish that those acts are ministerial, non-discretionary acts.

12. Because Section 5-4(c)(1)-(2) establishes that Animal Services and the Animal Control Officers must take those acts in response to a complaint of cruelty to animals by “any person,” Animal Services and the Animal Control Officers (including the Director and Enforcement Supervisor) owe an indisputable legal duty to Petitioner, the complaining party, to perform those ministerial, non-discretionary acts if “animal cruelty *may have* been committed.”

13. It is indisputable that Mr. Souto committed animal cruelty against the Huskies, let alone that he “*may have* [] committed” animal cruelty towards them.

14. In one video aired as part of a local news story, Souto hits one of the Huskies multiple times with an object and then lifts the Husky up in air by the leash and collar and then throws the Husky down multiple times saying, “You better listen, boy!”³ The following is a screen capture of the video showing Souto lifting one of the Huskies into the air before throwing him down.

³ <https://wsvn.com/news/local/miami-dade/sw-miami-dade-resident-says-videos-she-recorded-show-neighbor-mistreating-2-huskies-owner-says-hes-training-dogs/>



15. The same video shows Souto in a different location saying, “Now sit up. That’s what I want from you. I said sit,” before repeatedly striking one of the Huskies in the face, causing the Husky to yelp in pain.

16. Souto, who was interviewed as part of the news story, does not deny that he is the person in the videos abusing the Huskies. Rather, he claims that is merely his way of training the Huskies. *Supra* note 3.

17. In yet another video, Souto himself shows additional footage of him holding down one of the Huskies and beating it for an extended period of time. As part of that video, Souto records himself admitting that his conduct was improper and saying that it does not reflect how he is with the Huskies “all the time” and it “rarely gets to that level.” Accordingly, Souto admits that the abuse in the video has happened before and will happen again.⁴

18. The abuse has been so heart wrenching and continuous that multiple neighbors have even filed affidavits pleading with Animal Control Services to take action to protect the Huskies.

⁴ <https://ne-np.facebook.com/animalloversrescuellc/videos/282294066750915/>

Petitioner has redacted the affidavits heavily to protect the affiants' identities. Among other things, those affidavits state:

- a. "I have previously witnessed [Souto] abuse his dogs in prior instances." Exhibit A.
- b. On [REDACTED], "[REDACTED] and I both witnessed Christian Souto strike his dog multiples times Chris had Papi off leash and shortly after, Chris called Papi to come to him. Papi did not obey. Chris quickly became angry and picked up Papi by the neck and slammed him on his back. He then lifted him by the harness in the air and dropped him. He then proceeded to put Papi on his back while chocking him with one hand and striking him with the other over 20 times with force After that, he lifted Papi up again, this time by the harness, pulling him up over and over causing Papi to choke and then strikes him again across the face. He then restrains Papi for another few seconds before throwing him down and viciously kicking him." Exhibit A.
- c. Of that same incident, another affiant stated: "We could hear Papi screaming, crying and yelping the entire time I then saw him jerking around Papi when handling him from the face and neck. Once again, we could hear Papi's gut-wrenching cries the entire time." Exhibit B.
- d. Another affiant described another incident that occurred approximately two months prior when the affiant witnessed Souto "kick[] his dog, a male husky puppy The dog was pulling away from him on the leash and [Souto] kicked the dog with his left leg while holding the dog close to him. When he kicked the dog, he used the heel of his foot and flung his left calve behind his right leg." Exhibit C.

19. This evidence, including the video posted by Souto himself, demonstrate indisputably that Souto has, is, and will continue “to torture, torment, [and] mutilate” the Huskies and cause “the excessive or repeated infliction of unnecessary pain or suffering to the [Huskies], or to cause the same to be done” under Section 5-4(b)(1) and Section 5-4(b)(2), which define those acts as cruelty to animals.

20. The undisputed evidence demonstrates as a matter of law that Souto committed cruelty to animals, leaving no discretion as to whether animal cruelty “may have been committed” and obligating Animal Services and the Animal Control Officers to investigate and “immediately institute appropriate proceedings against the person responsible for the act of cruelty, issue the appropriate civil violation notice, and/or where appropriate, seek custody of the animal.”

21. Though Animal Services and at least one Animal Control Officer allegedly have investigated, Animal Services has stated that it will not take any action against Souto or to protect the Huskies, in direct violation of its nondiscretionary duty to “immediately institute appropriate proceedings against the person responsible for the act of cruelty, issue the appropriate civil violation notice, and/or where appropriate, seek custody of the animal,” where animal cruelty “may have been committed.” Section 5-4.

22. Moreover, even if Animal Services and the Animal Control Officers had discretion with respect to a decision not to take any action to protect the Huskies in light of the overwhelming evidence that animal cruelty “may have occurred,” they still would be subject to mandamus because Animal Services’ and the Animal Control Officers’ failure to act would be arbitrary and capricious, and the “arbitrary and capricious exercise of discretion conferred by law on an officer can or may be regulated by mandamus.” *Hialeah v. State*, 97 So. 2d 198, 199 (Fla. 3d DCA 1957). Mandamus is a proper remedy when, as here, “an official [has] act[ed] arbitrarily and

unwarrantably or in disregard of evidence clearly and unmistakably pointing to a contrary result.” *City of Miami Beach v. 3098 Alton Rd., LLC*, 307 So. 3d 86, 89 n.1 (Fla. 3d DCA 2020) (quoting *Hialeah v. State*, 97 So. 2d 198, 199 (Fla. 3d DCA 1957)).

23. Petitioner has no other adequate remedy at law to enforce Petitioner’s rights and compel Animal Services to perform the ministerial, non-discretionary duties set forth in Section 5-4.

COUNT I: WRIT OF MANDAMUS

24. Section 5-4 establishes Petitioner’s clear legal right to the requested relief.

25. Animal Services owes a non-discretionary, indisputable legal duty to “any person who complains of cruelty to animals” to “attempt to ascertain and investigate whether the facts alleged in the complaint or observation constitute an act of cruelty to animals” and “immediately institute appropriate proceedings against the person responsible for the act of cruelty, issue the appropriate civil violation notice, and/or where appropriate, seek custody of the animal” if “an act of cruelty to animals may have been committed.”

26. Petitioner is a “person who complain[ed] of cruelty to animals,” specifically Souto’s abuse of the Huskies.

27. Animal Services refuses to perform any of the nondiscretionary acts required of it, including pursuant to Section 5-4.

28. Petitioner has no other adequate remedy.

WHEREFORE, Petitioner request that this Court (1) impose injunctive relief as an equitable remedy on Animal Services; (2) compel Animal Services to “immediately institute appropriate proceedings against [Souto], issue the appropriate civil violation notice,” and, as is appropriate and required here, “seek custody of the animal.”

Dated: September 30, 2021

Respectfully,

By: /s/ Edward M. Mullins

Edward M. Mullins, Esq.

Florida Bar No. 863920

Email: EMullins@reedsmith.com

Mark E. Bini, Esq.

Florida Bar No. 1026547

Email: MBini@reedsmith.com

Daniel Alvarez Sox, Esq.

Florida Bar No. 108573

Email: DSox@reedsmith.com

REED SMITH LLP

1001 Brickell Bay Drive, Suite 900

Miami, FL 33131

Telephone: (786) 747-0200

Facsimile: (786) 747-0299

Attorneys for Petitioner

EXHIBIT A

I declare under penalty of perjury that the foregoing is true and correct.

[Redacted]

(Date)

[Redacted]

State of Florida
County of Miami-Dade

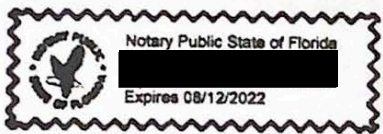
Sworn to (or affirmed) and subscribed before me by means of (*how the individual appeared check one*):

physical presence online notarization this [Redacted] day of [Redacted] [Redacted]
(date) (month) (year)

by [Redacted]
(name of individual swearing or affirming)

Individual identified by: personal knowledge satisfactory evidence _____
(type)

[Redacted]



(Affix Florida Notary Seal above)

[Redacted]

EXHIBIT B



WITNESS AFFIDAVIT ANIMAL SERVICES DEPARTMENT

Service Request: _____

STATE OF FLORIDA)

COUNTY OF MIAMI-DADE) ss:

BEFORE [REDACTED] appeared [REDACTED]

[REDACTED] residing at [REDACTED], who, after being duly sworn, deposed and stated as follows: On [REDACTED] at approximately [REDACTED] I was hanging out with my neighbor, [REDACTED], located at [REDACTED]. We were hanging out before she had to go to work [REDACTED]. [REDACTED], we saw Christian Souto walking along the canal with his two huskies, Bae and Papi. We had seen Christian Souto abuse his dogs previously and heard from neighbors that they have witnessed him abusing his dogs as well. Because of this, [REDACTED] as soon as we saw him with his dogs, [REDACTED]. I watched Christian Souto leave Bae on leash while allowing Papi to be off leash. Papi was not coming to Christian Souto when being called to come back and Christian Souto got very angry that he was not listening to him. Shortly after, he walks up to his dog, Papi, and picked him up and dropped him on his back on the ground. He then picked him up from the harness and dropped him once more, this time, Papi landing on his paws. He then grabbed Papi by the neck to the point where Papi was crying loudly and slammed him on his back. He proceeded to keep one hand on Papi's neck, choking him, and started to slap his dog hard in the face at least 20 times. He was hitting and punching Papi in the face while yelling at him. We could hear Papi screaming, crying and yelping the entire time. He then picked up Papi by the harness and dropped him on the ground three times. Papi then gets in a sitting position and Christian continues to forcefully slap Papi in the face to the point where Papi's whole face turned away from the excessive brutal slaps. Christian proceeded to grab Papi by the face and neck, choking him once more with one hand and slapping him with the other, while close to his face and yelling at him. I then saw him jerking around Papi when handling him from the face and neck. Once again, we could hear Papi's gut-wrenching cries the entire time. After that he picks Papi up from the harness and drops him on the ground once more. He then forces Papi to sit up straight. Before Papi had the chance to get away from Christian Souto, Christian kicks Papi in the rear causing him to run off.

I declare under penalty of perjury that the foregoing is true and correct.

[Redacted]

[Redacted]

State of Florida
County of Miami-Dade

Sworn to (or affirmed) and subscribed before me by means of *(how the individual appeared check one)*:

physical presence online notarization this [Redacted] day of [Redacted] [Redacted]
(date) (month) (year)

by [Redacted]
(name of individual swearing or affirming)

Individual identified by: personal knowledge satisfactory evidence _____
(type)

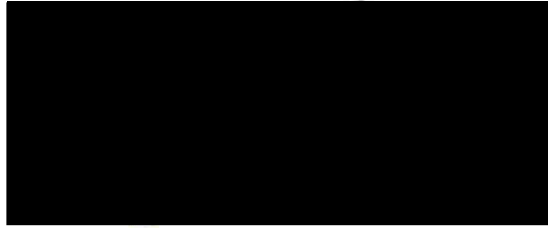
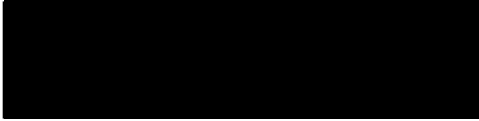
[Redacted]



(Affix Florida Notary Seal above)

EXHIBIT C

I declare under penalty of perjury that the foregoing is true and correct.



State of Florida

County of Miami-Dade

Sworn to (or affirmed) and subscribed before me by means of *(how the individual appeared check one):*

physical presence online notarization this  day of 

by 
(name of individual swearing or affirming)

Individual identified by: personal knowledge satisfactory evidence  *(type)*

