

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No.: 3:07CV397
v.)	
)	
APPROXIMATELY 53 PIT BULL DOGS,)	
)	
Defendants.)	

**SECOND ORDER AS TO DISPOSITION AND
APPOINTING GUARDIAN/SPECIAL MASTER**

On August 31, 2007, the Court entered an order forfeiting the defendant pitbull dogs to the United States pursuant to 7 U.S.C. §2156(f). Following behavior testing by experts, the United States, on October 1, 2007, moved for an order to euthanize one of 49 remaining dogs previously forfeited on the basis that the dog exhibited intense aggression toward humans such that it could not safely be maintained. Though not ruling out the possibility that additional dogs may have to be euthanized, the government reported that the behavior testing suggested that many of the remaining dogs could possibly be placed in appropriate facilities.

The government now seeks the appointment of a guardian/special master to advise the Court as to the appropriate final disposition of the remaining 48 dogs.

The United States has moved the Court to appoint Rebecca J. Huss, Professor of Law at Valparaiso University School of Law, as the guardian/special master. Having considered Professor Huss' qualifications, experience and willingness to serve, it is hereby ORDERED as follows:

1. Rebecca J. Huss is hereby appointed as guardian/special master to consider appropriate options for a final disposition of the remaining 48 pitbull dogs previously forfeited to the United States.

2. Professor Huss shall have the following powers and duties to fulfill her obligations:

(a) Consider available disposition and placement options as she deems appropriate for the final disposition of the remaining dogs;

(b) Engage and employ any individuals or entities the guardian/special master deems necessary to assist in her duties (“Retained Personnel”);

(c) Take such action as necessary and appropriate to provide for the interim care prior to final permanent disposition of the dogs. Interim care can consist of transferring dogs to outside organizations for temporary care or providing other types of care, including but not limited to veterinary care to the animals that remain in their current housing until a final disposition is determined;

(d) To consult with individuals and organizations that have experience with animal welfare issues, including but not limited to individuals or organizations that have specific knowledge about the breed (or breeds) of dogs at issue in this case; and

(e) To permit access to the remaining dogs by organizations, as she deems appropriate, in order for the organizations to assess their suitability to offer a permanent disposition for the dogs.

3. In evaluating the permanent disposition options, Professor Huss shall consider the following factors, among others:

(a) The need to protect the public and other animals from any dogs which may be aggressive; and

(b) The quality of life for any dog which may need to be housed in a restrictive environment for the long term.

4. The organizations considered for permanent placement should meet the following standards:

(a) There should be minimum standards to show the organization is established.

i. It must be a non-profit organization with section 501(c)(3) status under the Internal Revenue Code; and

ii. It must have been in existence for at least three years.

(b) The organization must agree to hold harmless the United States, Department of Justice, United States Attorney's Office for the Eastern District of Virginia, and Department of Agriculture, including their officers and employees, for any future death, injury, or other harm suffered by the organization (including its officers, employees, volunteers, and other individuals working for or volunteering at such organization), caused by the dogs or otherwise resulting from placement of the dogs with the organization.

(c) The organization must be willing to execute an indemnification agreement, indemnifying the United States, Department of Justice, United States Attorney's Office for the Eastern District of Virginia, and Department of Agriculture, including their officers and employees, in the event that any suit is filed against the United States, Department of Justice, United States Attorney's Office for the Eastern District of Virginia, and Department of Agriculture, including their officers and employees, resulting from any future death, injury, or other harm suffered by third parties caused by the dogs or otherwise resulting from placement of the dogs with the organization.

(d) The organization must carry at least \$1,000,000 in general liability insurance. Additionally, the organization must be able to show that it has carried such insurance on a consistent basis.

(e) The organization must be able to show that it can house the dogs in a manner that will be safe for the dogs, other animals, and any person interacting with the dogs. (In other words, in a manner consistent with public safety concerns.)

i. The organization must show that it has the ability to provide veterinary care to any animals under its care.

ii. The organization must show that either its facility or any foster care home used for the dogs have adequate security measures in place to protect the dogs from leaving the premises other than under the control of a responsible adult.

(f) If the special master determines that a dog must be placed in a manner to restrict the dog's contact with the public on a long term or permanent basis (e.g., an animal sanctuary environment) the organization must be able to show that it has the ability to provide lifetime care for the animal.

i. An organization providing care for a sanctuary dog must own the real property where the animal is to be kept or otherwise show that it has the capability to provide a secure location for the dog for the estimated lifetime of the dog.

ii. An organization providing care for a sanctuary dog must be able to show that it has experience dealing with dogs with special needs.

iii. An organization providing care for a sanctuary dog must be able to show that it has the administrative structure to manage the dog's care on an ongoing basis, including but not limited to the segregation of funds allocated to the dog or dogs' care.

(g) The organization will be subject to site visits by the guardian/special master or her agents.

(h) A dog cannot be placed in a jurisdiction that has a ban on the ownership of the breed of dog at issue.

(i) Organizations used for interim care or considered for permanent placement must meet Department of Agriculture standards for animal care found in the Animal Welfare Act, 7 U.S.C. § 2143, and implementing regulations found at 9 C.F.R. Chapter 1, Subchapter A-Animal Welfare, Part 3, Subpart A. The organization must grant authorization to the USDA Animal and Plant Health Inspection Service (“APHIS”) to review its facilities for compliance with the Animal Welfare Act. APHIS will make a determination as to whether or not the entity complies with the Act and such determination is final.

(j) The organization must agree that no information may be disclosed or used for fund-raising purposes by the organization regarding the dogs or the fact that the dogs have been placed with such organization. This prohibition applies not only to the organization but also to its officers, employees, volunteers, and other individuals working for or volunteering at such organization.

(k) The guardian/special master, in consultation with the United States Attorneys Office, may prescribe additional confidentiality provisions which will apply to any organizations and their employees which accept a dog for interim or permanent placement.

5. The government having moved to have all of the remaining dogs spayed or neutered and implanted with microchips to facilitate their recovery should a dog be lost, the Department of Agriculture or guardian/special master is authorized and directed to take such actions as it

deems appropriate to perform those tasks as soon as practical for any dogs that are not deemed candidates for immediate euthanasia.

6. The guardian/special master is entitled, along with any Retained Personnel, to reasonable compensation and expenses reimbursement. Such compensation shall be in amounts commensurate with the services performed by the guardian/special master and Retained Personnel. Such amounts may be paid from the Assets Forfeiture Fund. At the conclusion of this case, all expenses paid by the Fund and any prospective expenses, shall be paid by Michael Vick as provided for at paragraph 8 of Mr. Vick's plea agreement in case number 3:07CR274.

7. The guardian/special master shall not be required to post bond or give an undertaking of any type in connection with her fiduciary duties and obligations in this matter unless and until the Court so orders.

8. At the conclusion of the guardian/special master's duties outlined herein, she shall file a summary report with the Court describing her activities and recommendations. The Court will thereafter direct the final disposition as to the remaining dogs.

9. Upon final disposition of a dog(s) placed with an organization (including but not limited to placement in a foster home), complete ownership, title, and control of such dog(s) shall immediately transfer to the organization, and the Government's ownership, title, and control shall immediately cease.

The Court is mindful that this is an exceptional case which, because of the restitution provision of the plea agreement in the related criminal case, brings to this civil case exceptional resources which are unlikely to be present in other cases involving the forfeiture of animals involved in an animal fighting venture pursuant to 7 U.S.C. § 2156(f).

The Clerk of the Court is hereby directed to send a certified copy of this Order to all counsel of record and to the guardian/special master appointed hereunder.

Date

UNITED STATES DISTRICT JUDGE

We ask for this:

/s/
G. Wingate Grant
Michael R. Gill
Assistant United States Attorneys