

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff )  
 )  
 v. ) Civil Action No.: 3:07CV397  
 )  
 APPROXIMATELY 53 PIT BULLDOGS, )  
 )  
 Defendant. )

**MOTION FOR ORDER AS TO FINAL DISPOSITION**

COMES NOW the United States of America, pursuant to 7 U.S.C. §2156(f), and herewith moves the Court to enter an order as to final disposition of the forfeited pit bulldogs. In support of this motion, the government states the following:

1. This is an in rem forfeiture action pursuant to 7 U.S.C. §2156(f) seeking the forfeiture of approximately 53 pit bulldogs involved in an animal fighting venture.
2. On August 31, 2007, the Court entered a judgment forfeiting the seized dogs to the United States.
3. On October 16, 2007, the Court granted a motion by the government to appoint Professor Rebecca J. Huss as the guardian/special master to evaluate the permanent disposition options for the forfeited pitbulls.<sup>1</sup>

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<sup>1</sup> Section 2156(f), unlike most forfeiture statutes which prescribe that forfeited property be disposed of “according to law” or “as the Attorney General may direct,” reserves to the court hearing the forfeiture action the disposition of the forfeited property: “Any animal involved in any violation of this section shall be liable to be proceeded against and forfeited to the United States . . . and **upon a judgment of forfeiture shall be disposed of by sale for lawful purposes**”

4. Attached hereto is the Summary Report which explains how Professor Huss evaluated the animals, devised an application process for organizations seeking to provide placement facilities and services and her recommendation as to the permanent disposition of all of the forfeited pitbulls.

5. The government hereby moves the Court to adopt Professor Huss' report and recommendation and to authorize the United States Department of Agriculture to enter into agreements with the recommended rescue organizations setting the precise terms of the transfer of title to the dogs and their permanent placement.<sup>2</sup> Professor Huss has thoroughly evaluated all of the dogs in accordance with the Court's October 16, 2007 Order and considered all options for their disposition taking into account 1) the safety of the public and other animals with respect to any dogs which may be aggressive and 2) the quality of life for any dogs that may require long term housing in a restrictive environment. As noted in her report, Professor Huss has determined the best placement for each of the dogs, and her conclusions are explained in her report. The amount of effort and attention to detail by Professor Huss is nothing short of extraordinary. The United States urges the Court to adopt her recommendations. The costs associated with the

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**or by other humane means, as the court may direct.”** (Emphasis added)

<sup>2</sup> The government initially proposed numerous criteria that prospective placement organizations should meet in order to be considered appropriate permanent placement options. See paragraph 4 of October 16, 2007 Order. In order to place all of the forfeited pitbulls, some modification of the initial criteria is required. The only significant revision to the initial criteria is that some relaxation of the confidentiality provisions is now necessary. The government believes that issue and the numerous details of placement can best be accomplished by permitting the Department of Agriculture, with the guidance of the guardian/special master, to resolve through negotiated agreements between the Department of Agriculture and the recommended placement organizations. The United States is satisfied that all of the proposed placement organizations meet the essential criteria of the Order designed to protect the public and the dogs.

evaluation and placement will be addressed at the sentencing of the related criminal case, United States v. Vick, No. 3:07CR274.

WHEREFORE, the United States prays the court will enter an order as prayed for herein.

Respectfully submitted,

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UNITED STATES ATTORNEY

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**United States v. Approximately 53 Pit Bull Dogs**  
**Civil Action No.: 3:07CV397 (E.D. Va.)**  
**Summary Report**  
**Guardian/Special Master**

**Background**

Pursuant to 7 U.S.C. § 2156, the U.S. Department of Justice (DOJ) on behalf of the USDA-OIG seized and forfeited to the Federal Government (Government) 52 dogs which are believed to have been involved in animal fighting. United States v. Approximately 53 Pit Bull Dogs, Civil No. 3:07CV397 (E.D. Va.). On August 30, 2007, the U.S. District Court for the Eastern District of Virginia (Court) issued an Order forfeiting the dogs to the Government.

From September 4-6, 2007, a team of certified animal behavior experts and others assembled by the American Society for the Prevention of Cruelty to Animals (ASPCA) conducted individualized behavior testing of all of the 49 remaining forfeited animals. Based upon the test results, each dog was classified by the evaluators into categories corresponding to one of five possible disposition recommendations: (1) Foster Care/Observation; (2) Law Dog; (3) Sanctuary 1; (4) Sanctuary 2; and (5) Euthanasia (ASPCA Evaluation).

On October 1, 2007, based upon the recommendation of the Government, the Court ordered that one of the dogs be euthanized. On October 15, 2007, based upon the recommendation of the Government, the Court appointed a guardian/special master to advise the Court as to the appropriate final disposition for the remaining 48 dogs (Second Order as to Disposition and Appointing Guardian/Special Master).

As the individual appointed as the Guardian/Special Master in the Second Order as to Disposition and Appointing Guardian/Special Master, the following is a summary report describing my activities and recommendations regarding the disposition of the dogs.

**Activities**

*October Assessment*

During the period of October 17-19, 2007, I traveled to each of the shelters where the dogs were located in order to assess the dogs' current condition and interact with shelter personnel regarding the behavior of the dogs. I was accompanied to the shelters by Mr. Tim Racer of Bay Area Doglovers Responsible About Pit Bulls (BAD RAP). Mr. Racer was a member of the team of experts assembled by the ASPCA to conduct the initial evaluation of the dogs in September. Mr. Racer and I interacted with each of the forty-eight dogs over this three day period. With the exception of five dogs located at one shelter, in addition to taking each of the dogs out of the kennel and interacting with him or her individually, another dog of the same gender was introduced in the evaluation area to determine whether the dog exhibited behavior that would indicate the dog would act inappropriately around other dogs. I spoke with animal control officers at each

facility about the status and behavior of each dog. I relied on Mr. Racer's extensive knowledge about American Pit Bull Terriers and his prior interaction with the dogs to provide me with feedback on each individual dog. I made notes on each dog and compared these notes with the information provided in the ASPCA Evaluation.

#### *Interim Care – Ongoing Evaluations*

In order to provide further evaluations on the dogs, I recommended that certain measures be taken to provide "interim care" for the dogs until a final disposition was ordered. BAD RAP arranged for foster home care for most of the dogs that the ASPCA Evaluation recommended as Foster Care/Observation dogs. Pursuant to the agreements entered into between the organizations providing the foster care and the USDA-OIG, I received bi-weekly reports on the behavior and veterinary issues for each of the dogs. For the dogs remaining in the shelters, BAD RAP entered into an agreement to provide continuing kennel evaluation services. Specifically, a representative of BAD RAP would visit each shelter in turn and interact with each of the dogs. This representative began her work on November 6, 2007 and has provided me with daily notes on her interactions with the dogs. In order to facilitate this work, dogs were moved so they would be located in fewer shelters. In addition, due to an unexpected staffing shortage at another Virginia shelter, the dogs from that shelter were moved to a private shelter in the Washington, D.C. area. In addition to housing and veterinary care, the Washington, D.C. shelter also provided evaluation services and reported weekly on the status and behavior of each of the dogs. In addition to reviewing and discussing with the interim care providers the written evaluations on the behavior of the dogs during this interim period, I also reviewed the information provided in and recordings made during the ASPCA Evaluation focusing on the dogs that were exhibiting behavior that would make placing the dog more challenging.

#### *Application Process*

I prepared and distributed an application for placement of the dogs with rescue organizations. In drafting the application I followed the standards set for the organizations by the Second Order as to Disposition and Appointing Guardian/Special Master. In addition, I consulted with animal welfare and rescue organizations, including but not limited to the ASPCA, about the information that the rescue organizations be required to provide.

I received several applications from rescue organizations and responded to inquiries from other organizations that wished to be considered in determining permanent placement of the dogs. Of the rescue organizations that completed an application, a few met all the standards set by the Second Order as to Disposition and Appointment of Special Master, except the requirement that the organization be in existence for at least three years. Each of these rescue organizations was organized by people who had been involved in the rescue of animals through other organizations for a lengthy period of time. The primary reason that the new organization was established was to serve a different geographic area. As the purpose of requiring an organization to have a certain amount of history was to determine the stability of an organization, I made further

inquiries into those organizations' ability to care for a dog in the long term if such care became necessary. I am confident that these organizations have the resources and commitment to be appropriate options for placement of these dogs.

In determining whether I would recommend a rescue organization be considered for placement of a dog I contacted the references provided by the organization as well performed independent research on the organizations. I considered whether the organization had trainers or access to trainers that were experienced in dealing with dogs with special needs and the standard policies of the organizations. During this time I was in contact with representatives of several breed specific and general rescue organizations. The purpose of these contacts was to discuss the requirements of these dogs and the issues involved in the placement of the dogs.

I contacted the rescue organizations that I believed would be best suited for the dogs and provided access and information about the dogs to those organizations so they could determine whether a dog was appropriate for placement with their organization.

I made recommendations to the USDA for language to be included in the transfer agreements with the rescue organizations to reflect the needs of the dogs and to safeguard the public and other animals from any dog that may have exhibited dog arousal issues during the ASPCA Evaluation or may become aggressive in the future.

#### *Euthanization of Dog for Medical Reasons*

The female dog identified as Sussex #2610 was euthanized for medical reasons on November 10, 2007. This dog had been identified as a Foster Care/Observation dog in the ASPCA Evaluation and she continued to exhibit positive behavioral attributes during my visit in October and for the BAD RAP representative providing kennel evaluation services of the dogs. While this dog was in one of the shelters in Virginia, the dog was evaluated by a veterinarian in anticipation of the possible removal of a mammary tumor. That veterinarian determined in addition to the mammary tumor, the dog also had a large growth in her abdominal cavity. The dog was not considered a good candidate for surgery due to limited lung capacity as well as other issues dealing with the size and likely status of the abdominal tumor. The dog was transferred to a rescue organization for foster care and continued medical observation. While the dog was in the custody of the rescue organization she began to have difficulty breathing. A veterinarian for the rescue organization was in attendance, provided pain relief and recommended that the dog be euthanized. Previously, I discussed with the U.S. Attorney's office the procedure to be followed in the event of a medical issue with one of the dogs. Pursuant to that procedure, I contacted the Special Agent-in-Charge of the case at the USDA and with her concurrence, authorized the euthanization of the dog.

#### *November Assessment*

During the period of November 28-30, 2007, I traveled to each of the shelters where the dogs were being housed. The purpose of the visit was to determine the final placement of the dogs based on all the evaluations of the dogs' behavior and in light of the options available for their care. Along with the representative of BAD RAP providing kennel evaluation services, I interacted with each of the dogs and discussed the

status and behavior of the dogs with the dogs' caretakers. On those same days, a team from Best Friends Animal Society visited each of the shelters to interact with and evaluate each of the dogs that could be placed with that organization. I observed the evaluations that the Best Friends Animal Society team performed. I also discussed the status and long-term prospects of these dogs with the Best Friends Animal Society team.

## **Recommendations**

Based on the information available to me at this time, I recommend that the dogs be transferred to rescue organizations pursuant to the chart attached hereto as Exhibit A. Each of the rescue organizations that I am recommending for placement of the dogs has committed to the lifetime care of the dogs if necessary. Each dog is identified by the designation that was given to the dog when it entered the shelter where it was housed at the time of the ASPCA Evaluation. As stated above, since my appointment as Guardian/Special Master many of the dogs have been transferred from those locations.

The stipend amount per dog is derived on an estimate of the total cost of the care of the dogs that would be incurred by rescue organizations that was provided to the defendant in the associated criminal case prior to my appointment as Guardian/Special Master. I believe that the actual cost to care and place the dogs will be substantially higher. This is due to the fact that many of the supplies and services that will be provided to the dogs are donated or performed by volunteers.

An allocation of \$5,000 per dog was made if based on the evaluations and information available, it appears reasonably likely that after a period of time in a foster home where behavior could be assessed and training would occur, these dogs could be adopted by members of the public.

An allocation of \$20,000 per dog was made if based on the evaluations and information available, a dog is likely to spend a significant amount of time, if not the dog's remaining lifetime, in an environment that will control the dog's interaction with people or other animals while it receives necessary socialization and training. The environment may consist of a foster home or sanctuary environment depending on the needs of the dog. The need to control a dog's interaction with people is to make certain that a dog that is shy or withdrawn has only positive interactions with people. After meeting certain standards of behavior and a period of time in a foster home where behavior can continue to be assessed and training could occur, most of these dogs could be adopted by members of the public.

The agreement that each rescue organization would enter into with the USDA-OIG would set out the circumstances under which the rescue organization may either adopt the dog to a member of the public or transfer the dog to another rescue organization. In addition, the agreement would contain language that provides that the organizations may only euthanize a dog under certain specified circumstances. Due to the ongoing criminal proceedings, each of the rescue organizations has agreed not to disclose anything about the dogs unless prior approval of such disclosure has been granted by the U.S. Attorney's Office for the Eastern District of Virginia. After the final sentencing in the federal proceedings, the organizations would be allowed to discuss the dogs as they would any other dogs under their care unless the dogs' safety would be compromised.

Each of the rescue organizations that I am recommending for placement of the dogs has experience in the care of dogs and access to trainers that can deal with any behavioral issues that may arise. There were many reasons to recommend each of the rescue organizations. The needs of each individual dog were considered when making my recommendations.

I recommend that twenty-two dogs be placed with Best Friends Animal Society. Best Friends Animal Society has a large sanctuary in Utah and regularly assists with large-scale rescue efforts. Best Friends Animal Society is accustomed to dealing with dogs that have special medical and behavioral needs. Best Friends Animal Society is committed to providing what each of the dogs' needs to be able to thrive in a sanctuary environment if it necessary for a dog to remain in such an environment for life. One of the dogs placed with Best Friends Animal Society appears likely to be able to be adopted by a member of the public within a relatively short period of time. In the ASPCA Evaluation, that dog appeared to be a potential candidate to be placed as a Law Dog, but further evaluation indicated that the dog would not meet the criteria for those types of programs.

I recommend that ten dogs be placed with BAD RAP. BAD RAP organized interim care for many of the dogs recommended by the ASPCA Evaluation as Foster Care/Observation dogs in addition to being an interim care provider for several of those dogs. BAD RAP's primary rescue mission is to prepare dogs for adoption to the public, however it has agreed to take one dog that may need lifetime care. BAD RAP regularly provides training for people with American Pit Bull Terriers and has a great deal of expertise with the breed.

I recommend that four dogs be placed with the Richmond Animal League (RAL). The dogs placed with RAL will be transferred directly to foster homes and will not be housed at the RAL facility. This organization has the capacity to take and train four dogs that have the potential to be adopted by members of the public.

I recommend that three dogs be placed with the Georgia Society for Prevention of Cruelty to Animals (Georgia S.P.C.A.). This organization has the capacity to take one dog that may need lifetime care in addition to two dogs that have the potential to be able to be adopted by members of the public.

I recommend that three dogs be placed with the SPCA of Monterey County. The SPCA of Monterey County provided interim care for these three dogs and provided reports showing progress of each of the dogs. The SPCA of Monterey County has the capacity to continue to train these dogs for potential future adoption by members of the public.

I recommend that three dogs be placed with Recycled Love, Inc. Two of the dogs that Recycled Love, Inc. has agreed to take may need lifetime care. This organization has expertise in providing the type of care that these two dogs need. In addition, Recycled Love, Inc. has agreed to care and train a dog that has the potential for future adoption to a member of the public.

I recommend that one dog be placed with Animal Rescue of Tidewater. This organization had the opportunity to meet several dogs and believed that this dog best met the mission of its organization. This organization has the ability to care and train for the dog for potential future adoption by a member of the public.

I recommend that one dog be placed with Our Pack, Inc. The intention of this organization is for this dog to be trained for therapy work in addition to preparing the dog for potential adoption by a member of the public.

### **Conclusion**

My recommendations for placement consider the factors that were set out in the Second Order as to Disposition and Appointing Special Master. There have been extensive evaluations done on each of the dogs to determine if the dog exhibits any behavior that indicates that the dog may be aggressive towards people or other animals. While in the foster home, each dog must continue to exhibit behavior that indicates that the dog would be safe to the public prior to being adopted by a member of the public. In addition, I have considered the quality of life for any dog that may need to be housed in a controlled environment for the long term and believe that each of the dogs has the capacity to thrive in such an environment.

Respectfully submitted,

/s/ Rebecca J. Huss  
Guardian/Special Master  
December 3, 2007

**EXHIBIT A**  
**RECOMMENDATIONS FOR PLACEMENT OF DOGS**

<b>Initial Placement Designation</b>	<b>Stipend Amount</b>	<b>Rescue Organization</b>
Hopewell #002 491	\$5,000	Our Pack, Inc.
Hanover #43	\$5,000	Georgia S.P.C.A.
Hanover #42	\$20,000	Best Friends Animal Society
Hanover #41	\$20,000	Best Friends Animal Society
Hanover #27	\$20,000	Best Friends Animal Society
Hanover #28	\$20,000	Best Friends Animal Society
Hanover #32	\$5,000	BAD RAP
Hanover #29	\$20,000	Best Friends Animal Society
Hanover #30	\$20,000	Best Friends Animal Society
Hanover #31	\$5,000	RAL
Hanover #26	\$5,000	SPCA of Monterey County
Hanover #44	\$5,000	BAD RAP
Chesapeake #54919	\$20,000	Best Friends Animal Society
Chesapeake #54903	\$5,000	Animal Rescue of Tidewater
Chesapeake #54917	\$20,000	Best Friends Animal Society
Chesapeake #54918	\$5,000	BAD RAP
Chesapeake #54907	\$5,000	BAD RAP
Chesapeake #54906	\$20,000	Best Friends Animal Society
Chesapeake #54916	\$5,000	Georgia S.P.C.A.
Chesapeake #54902	\$5,000	BAD RAP
Chesapeake #54904	\$20,000	Best Friends Animal Society
Chesapeake #54905	\$5,000	BAD RAP
Virginia Beach #27	\$20,000	Best Friends Animal Society
Virginia Beach #38	\$5,000	BAD RAP
Virginia Beach #46	\$5,000	SPCA of Monterey County
Suffolk M-0383	\$20,000	Best Friends Animal Society
Suffolk M-0382	\$20,000	Best Friends Animal Society
Suffolk M-0384	\$20,000	Best Friends Animal Society
Suffolk F-0831	\$5,000	RAL
Suffolk M-0380	\$5,000	RAL
Sussex #2601	\$5,000	RAL
Sussex #2614	\$5,000	Recycled Love, Inc.
Sussex #2620	\$20,000	Best Friends Animal Society
Sussex #2606	\$5,000	BAD RAP
Sussex #2611	\$5,000	Best Friends Animal Society
Sussex #2603	\$20,000	Recycled Love, Inc.
Sussex #2615	\$20,000	Best Friends Animal Society
Sussex #2613	\$5,000	SPCA of Monterey County
Sussex #2608	\$20,000	Georgia S.P.C.A.

Sussex #2612	\$20,000	Best Friends Animal Society
Sussex #2604	\$5,000	BAD RAP
Sussex #2605	\$20,000	Best Friends Animal Society
Sussex #2607	\$20,000	Best Friends Animal Society
Sussex #2602	\$20,000	Recycled Love, Inc.
Sussex #2619	\$20,000	BAD RAP
Sussex #2616	\$20,000	Best Friends Animal Society
Sussex #2609	\$20,000	Best Friends Animal Society

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	)	
APPROXIMATELY 53 PIT BULLDOGS,	)	
	)	
Defendant.	)	

**ORDER**

The United States has filed a Motion for Order as to Final Disposition accompanied by a report of the court appointed guardian/special master, Professor Rebecca J. Huss. Having considered the motion and Professor Huss' report and recommendations, and deeming it proper so to do, it is hereby ORDERED, pursuant to 7 U.S.C. §2156(f):

1. As the Court is satisfied that an appropriate investigation has been made of the permanent placement options for the forfeited pitbulls, the summary report of the guardian/special master is hereby ADOPTED by the Court.

2. The United States Department of Agriculture is hereby AUTHORIZED to enter into agreements with the animal rescue organizations identified in the guardian/special master's report and recommendation for the permanent placement of the forfeited dogs on such terms as the Department of Agriculture deems appropriate.

Let the Clerk send five certified copies of this order to counsel for the United States.

