

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

SAMANTHA CARR,

CASE NO.: 2014-CV-000068-A-O
LOWER COURT CASE: 2014-CO-517-A-O
2014-CO-521-A-O

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the County Court,
in and for Orange County, Florida,
Janis Halker Simpson, Senior Judge.

Samantha Carr,
pro se.

Edward Martin Chew, Esq.
for Appellee.

Before MURPHY, LAUTEN, and LEBLANC, J.J.

PER CURIAM.

FINAL ORDER AFFIRMING TRIAL COURT

Appellant, Samantha Carr (“Appellant”), appeals the trial court’s Order Denying Motions to Dismiss and Finding the Defendant Guilty of Ordinance Violations rendered October 1, 2014. This Court has jurisdiction pursuant to Florida Rule of Appellate Procedure 9.030(c)(1)(A). We affirm.

Procedural History

As gathered from the record on appeal, Warren Barrow (“Barrow”) and his two-year-old son were visiting a friend, Don Holmes (“Holmes”), at his home where he resided with Appellant. Appellant ate lunch with Holmes, Barrow and his son earlier in the day. Barrow, his son, and Holmes were in the backyard along with Appellant’s pit bull while Appellant was in the house. Holmes went inside temporarily, and Barrow’s son reached for the toy with which the dog had been playing. The dog then head-butted the child in the chest. Barrow picked up his son and the dog grabbed onto the boy’s leg. He did not hold onto the leg, but instead bit him and let go. Neither Holmes nor Appellant was present when the bite occurred.

Barrow took his son to Dr. Phillips Hospital where he was initially treated before being transferred to Arnold Palmer Hospital for Children. He underwent surgery to clean and stitch up the wound, but did not suffer any motor damage. Animal Services Officer Lynn Gibson (“Gibson”) met Barrow at the hospital to take his statement. As a result of this statement, Gibson issued Appellant a citation for failure to control an animal resulting in a severe injury and for permitting an animal to act in an aggressive manner under sections 5-50(a)(1), 5-50(a)(5), and 5-50(b)(5) of the Orange County Code. She refused to sign the citation so Gibson posted it.

On April 27, 2014, Animal Services Officer Katherine Martinez (“Martinez”) attempted to pick up the dog for quarantine as is customary. Appellant refused to surrender the dog, despite a lengthy conversation of the necessity to quarantine the dog due to the severe injury, in order to check for rabies, and to perform a dangerous dog investigation. Martinez issued a citation for refusal to surrender an animal. The dog was quarantined at home for 10 days after which Animal Services Officer Emily Moore (“Moore”) verified that the dog was in good health. The dog has

yet to be surrendered to authorities. After the nonjury trial, the trial court found Appellant guilty of the ordinance violations.

Arguments on Appeal

In this case, Appellant's arguments are a bit confusing and unorganized. The Court has gathered that Appellant is arguing that 1) her motion to dismiss should have been granted because the court lacked jurisdiction over the subject matter and parties, 2) the trial was conducted improperly as the witnesses were allowed to act as counsel, there was testimony proving that she is innocent, and her objections were overruled despite going unrebutted, 3) insufficiency of process, 4) insufficiency of service of process, 5) lack of standing and failure to state a claim on which genuine relief can be granted, 6) failure to state a cause of action, and 7) failure to join an indispensable party.

Standard of Review

The standard of review applicable to a trial court decision based upon a finding of fact is whether the decision is supported by competent substantial evidence. *Shaw v. Shaw*, 334 So. 2d 13, 16 (Fla. 1976). Also, it is well established that in appellate proceedings the decision of a trial court is presumed to be correct and the burden is on the appellant to demonstrate error. *Applegate v. Barnett Bank of Tallahassee*, 377 So. 2d 1150, 1152 (Fla. 1979). The standard of review for conclusions of law is a *de novo* standard. *Bay County v. Town of Cedar Grove*, 992 So. 2d 164, 167 (Fla. 2008) (citing *City of Gainesville v. State*, 863 So. 2d 138, 143 (Fla. 2003).

Analysis

In this case, the Court must determine if there is competent substantial evidence to support the finding of the lower court. It is not this Court's function to reweigh the evidence; that

is the role of the trial court. *Williams v. State*, 37 So. 3d 187, 207 (Fla. 2010) (*See Williacy v. State*, 696 So. 2d 693, 695 (Fla. 1997)).

Section 5-50 of the Orange County Code provides that it is a violation for a person to:

- (a)(1) Refuse to surrender an animal upon lawful demand by an animal services officer.
- (a)(5) Fail to control an animal, resulting in severe injury to a human being or another animal.
- (b)(5) Permit an animal to act in an aggressive manner.

Orange County, Fla., Code of Ordinances § 5-50(a)(1), (a)(5), (b)(5) (2014).

The record reflects that Martinez attempted to obtain the dog for the purposes of quarantine, but Appellant refused to surrender the animal upon this demand. Martinez testified that information was provided to Appellant about the importance of this surrender, and she still refused to do so. As Martinez is an animal services officer, this was a lawful demand for the animal, and Appellant defied it. The record also reflects that Appellant failed to control the animal. As a result, Barrow's son suffered severe injury to his leg, needed to be transported to Arnold Palmer Children's Hospital, and received surgical treatment to stitch up the wound. Additionally, Appellant permitted the animal to act in an aggressive manner by failing to restrain it and leaving it in the company of others without her supervision or attention. The dog was unprovoked and head-butted, and subsequently, bit the child.

There was substantial competent evidence to support the trial court's findings. Appellant appears to be attempting to apply rules and laws that are either criminal in nature or applicable to civil lawsuits. As this is a civil infraction and not a lawsuit, these rules would not apply. The only argument to properly make at this level is that there was not competent evidence to support the lower court's finding. This argument could not be supported by the record.

Accordingly, it is hereby **ORDERED AND ADJUDGED** the Order Denying Motions to Dismiss and Finding the Defendant Guilty of Ordinance Violations is **AFFIRMED**.

DONE AND ORDERED in Chambers at Orlando, Orange County, Florida, this 4th day of May, 2015.

/S/

MIKE MURPHY
Presiding Circuit Judge

LAUTEN and LEBLANC, J.J., concur.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order has been furnished to **Judge Janis Halker Simpson**, 425 N. Orange Avenue, Orlando, Florida 32801; **Samantha Carr**, *pro se*, 6757 Samara Court, Orlando, Florida 32819; and **Edward Martin Chew, Esq.**, Orange County Attorney's Office, 201 S. Rosalind Avenue – Third Floor, P.O. Box 1393, Orlando, Florida 32801, as counsel for Appellee on the 5th day of May, 2015.

/S/

Judicial Assistant