

**IN THE DISTRICT COURT  
AT AUCKLAND**

**CRI-2016-004-003633  
[2016] NZDC 26702**

**AUCKLAND COUNCIL**  
Prosecutor

v

**NATALIE THERESA FORD**  
Defendant

Hearing: 23 December 2016  
Appearances: A Castro for the Prosecutor  
Defendant appears in Person  
Judgment: 23 December 2016

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**NOTES OF JUDGE E P PAUL ON SENTENCING**

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[1] Natalie Theresa Ford appears today having previously pleaded guilty and, being convicted of one charge under the Dog Control Act 1996, owned a dog that attacked a person. The maximum penalty for this offending is \$3000 fine in addition to any damages caused by the dog. And, further, the Court must, on convicting the owner, make an order for destruction of the dog unless the Court is satisfied that the circumstances of the offence were exceptional and do not warrant destruction of the dog.

[2] I have been assisted in my determination of that issue by the Council's submissions by Ms Castro, and also submissions made by Ms Ford. The facts briefly are on the evening of 7 March this year the complainant in this matter witnessed two dogs entering her property. She recognised the dogs as belonging to Ms Ford. The complainant went outside, approaching the dogs and calling them to her. She grabbed one of the dogs by its collar in her left hand then grasped the defendant's

dog, Ed, the subject of the charge, by the collar with her right hand. Ed growled and began biting her right arm. She struggled with the dog, then releasing him. Ed immediately ran off.

[3] The complainant was taken for medical treatment and sustained wounds requiring stitches and there were punctures, and I have a medical report confirming that. I have also sighted photographs of the wounds to the complainant's arms. That is all acknowledged by Ms Ford, and I note Ms Ford has sent a letter of apology to the complainant which the complainant has accepted. The complainant in her own statement has expressed her concerns about the dog, Ed, and that she is of the view the animal should be put down. However, that is her view. It is not determinative of the decision I make today.

[4] The Council, in a very fair way, have identified some factors which could support a finding of exceptional circumstances and I note the Council take a neutral position on whether an order for destruction should be made today. What has been identified, however, is that it was the complainant who grabbed the dog, Ed, by his collar and the Council acknowledge that action may well have triggered the dog's defensive instincts to bite. The Council also noted this matter occurred at night. It was dark and again those facts may have contributed to the dog's aggressive response. It was not a prolonged attack and perhaps significantly as soon as the dog was released, rather than continuing with the attack it ran off and did not show further signs of aggression.

[5] What that all points to is that it would appear the complainant's actions initiated the attack, rather than the usual circumstance we see where members of the public are set upon by unrestrained animals and, sadly, oftentimes even with intervention the dogs continue to attack. That is not the case here. It is in fact almost the opposite.

[6] Furthermore, the Council acknowledge and it appears to be confirmed in supporting letters provided by Ms Ford that "Ed" the dog has no record of aggressive history, nor does the defendant have any previous relevant convictions. Furthermore, the dog has always been registered and the Council acknowledge that when all these

factors are taken into account they may be seen as sufficient to find exceptional circumstances. It seems to me that must be right. The incident was not initiated by the dog although the dog was clearly in a place it should not have been, and I formally warn Ms Ford that she must be vigilant as to her animal's whereabouts. There will now be a record against Ms Ford's name and it is unlikely any dog in her ownership, if this happened again, would avoid destruction.

[7] For all of those reasons, I do find exceptional circumstances. There will be no order for destruction of the animal.

[8] However, Ms Ford's failure must be marked. A fine is appropriate. Accordingly, a fine of \$750 is ordered. Court costs of \$130. I make an order for medical cost to be paid to the complainant of \$503. Finally, I order emotional harm reparation payment of \$200. Again, that has to be made to the complainant.

E P Paul  
District Court Judge