

DANIEL G. HEMPEY 7535
HEMPEY & MEYERS LLP
3175 Elua Street, Suite C
Lihu'e, Hawai'i 96766
Tel. (808) 632-2444
Fax. (808) 632-2332

Attorneys for KAUAI HUMANE SOCIETY

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

KAUA'I HUMANE SOCIETY'S PETITION
FOR 1) FORFEITURE OF 16 HORSES; 2)
APPOINTMENT OF A SPECIAL
PROSECUTOR; MEMORANDUM IN
SUPPORT OF MOTION; DECLARATION OF
SHANNON BLIZZARD; DECLARATION OF
JESSICA VENNEMAN; DECLARATION OF
ELIZABETH FREITAS; DECLARATION OF
ORIANNA SKOMOROCH; DECLARATION
OF REBECCA GAGNON; NOTICE OF
HEARING ON PETITION; EXHIBITS A-B;
CERTIFICATE OF SERVICE

Hearing Date:

Hearing Time:

Judge: Hon. Judge Randal G.B. Valenciano

KAUA'I HUMANE SOCIETY'S PETITION FOR 1) FORFEITURE OF 16 HORSES;
2) APPOINTMENT OF A SPECIAL PROSECUTOR

COMES NOW KAUAI HUMANE SOCIETY, by and through their attorney, Daniel G. Hempey, and hereby moves the Honorable Judge for an Order recusing the Kauai Prosecuting Attorney and appointing a special prosecutor in the above-captioned matter. Petitioner also moves for pretrial forfeiture of 16 horses.

This Petition is based on the Memorandum in Support of Motion and Declarations herein, and documents attached hereto and incorporated herein by reference, and any evidence adduced at a hearing in this matter.

DATED: Lihū`e, Hawai`i, March 1, 2012.



DANIEL HEMPEY
Attorney for KAUA`I HUMANE SOCIETY

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

MEMORANDUM IN SUPPORT OF
MOTION

MEMORANDUM IN SUPPORT OF MOTION

I. SUMMARY

This is an animal cruelty prosecution involving sixteen defenseless horses, which is set for trial in the coming weeks. The Prosecuting Attorney and her representatives have repeatedly assured the Kauai Humane society that this a provable case, and the Humane Society has incurred great expense in caring for the previously emaciated horses based on those assurances during the approximately nineteen months this case has been pending.

Recently, however, the Prosecuting Attorney became embroiled in an unrelated argument with a Kauai Humane Society investigator who investigated this case. The Prosecutor has alleged that the investigator was dishonest with her in January 2012 regarding the investigator's attempts to investigate an unrelated barking dog complaint – against the husband of an employee of the Office of the Prosecuting Attorney. In response to the argument, the Prosecutor has demanded that the Humane Society terminate the investigator's employment.

The Prosecutor has informed the Humane Society that she intends to dismiss the prosecution of this animal cruelty case in response to the Humane Society's refusal to yield to the Prosecutor's demand that the investigator be fired. In a recent conversation with a deputy prosecutor, (today) the deputy stated that the prosecutor may first move for recusal – and if that motion is made, this Petition requests that such recusal be granted.

This Motion seeks recusal of the Prosecuting Attorney and referral to the Attorney General or the appointment of a special prosecutor and forfeiture of the horses to insure that the horses are adequately protected, that The Humane Society obtains the restitution to which it is entitled and to insure that this prosecution succeeds or fails based solely on the merits of the case and without regard to politics or personal bias.

II. STATEMENT OF FACTS

Detailed accounts of movant's factual assertions are set forth in the attached declarations of Shannon Blizzard, Jessica Venneman, Orianna Skomoroch, Rebecca Gagnon and Elizabeth Freitas.

Jessica Venneman has declared that she "was part of the execution of a search warrant that was served on May 30, 2010 on Ms. Butler-Brady's property. Sixteen horses were seized and sixteen citations were issued for animal cruelty. Since that date, the 16 horses have been in the care and custody of the Kauai Humane Society. As a result of the seizure and citations, the Kauai Prosecuting Attorney's Office filed 16 charges in State of Hawaii v. Lara Butler-Brady Criminal No. 10-1-0181." Declaration of Jessica Venneman. Photos of the horses at or near the time of seizure are attached as "Exhibit B".

Ms. Venneman next recounts a phone conversation she had with the prosecuting attorney approximately 19 months later, regarding Jessica's attempt to investigate a complaint of barking dogs that was lodged against the husband of an employee of the Office of the Prosecuting Attorney. Id.

Shannon Blizzard is the Executive Director of the Humane Society. Her declaration details attempts by the prosecuting attorney to have Ms. Venneman disciplined or terminated from her employment, apparently based on the phone call Jessica Venneman had with the Prosecuting Attorney. She writes, "Ms. Iseri-Carvalho said Jessica offended her while they were on the phone. She said that during that phone call, Jessica implied to Ms. Iseri-Carvalho that Ms. Iseri-Carvalho was asking for special treatment for the complainant, who I later heard is married to an employee at the Office of the Prosecuting Attorney." She continues that, "I was confused what it was that Ms. Iseri-Carvalho wanted or how this could be resolved. She appeared to have concerns with Jessica's employment at Kauai Humane Society. I asked Ms. Iseri-Carvalho, 'if Jessica was no longer a humane officer, would you be able to work around it.' Ms. Iseri-

Carvalho replied with, 'well, that might help.' Ms. Iseri-Carvalho gave me the impression that would be a reasonable resolution. Ms. Iseri-Carvalho implied she would have to dismiss the horse case but that if Jessica were gone from the humane society it would help us." Declaration of Shannon Blizzard.

Becky Gagnon, a Board Member of the Kauai Humane Society (KHS) states that she heard part of the telephone calls between Ms. Iseri Carvalho and Ms. Blizzard. She recounts how the call upset Ms. Blizzard and how she understood the prosecution of this case (the horse case) to be getting tied into the telephone conversation the prosecutor had with the investigator some year and a half later.

The Humane Society, however believes that its investigator is credible, and decline to terminate her employment. Id.

Later, Ms. Blizzard declares that the prosecuting attorney recently sent her an email that stated: "I just was handed a letter dated February 24, 2012 that was addressed to Marla Torres-Lam regarding Lara Butler-Brady's trial. As you already know, we have made numerous exceptions in this matter, which our office can longer afford to do. The OPA never authorized any witnesses back from the Mainland for a misdemeanor case, except in this case. We agree this is a very important case. For this reason, it is extremely rare that we have an experienced felony deputy utilize her experience on a misdemeanor case when she has almost 100 serious, heinous felony cases that total thousands of criminal counts. This was a huge exception. We have expended thousands and thousands of dollars. We have limited resources. My office has bent over backwards to accommodate your needs. You have been made aware of the credibility of one of the main witnesses that directly affect the integrity of this office's reputation. We will not bringing Dr. Rhodes back and cannot in ethical conscience proceed when you have not resolved the issues regarding your employee. (emphasis added). This information has already been provided to you in person at our last meeting.

Shaylene Iseri-Carvalho." (emphasis added). See Email from Prosecutor attached as "Exhibit A".

The Humane Society seized the horses pursuant to a warrant and has a statutory duty to care for them pending trial. To this end, it has expended approximately \$70,000 to date in caring for the subject horses.

Both Ms. Blizzard and Ms. Freitas have declared that throughout this case, both the prosecuting attorney and the deputy prosecuting attorney have told them that this is a good or provable case. Declarations of Freitas and Blizzard. Because of the prosecutor's threat of filing a pre-trial dismissal, the Humane Society now petitions for forfeiture of the horses, or in the alternative, for the appointment of a special prosecutor.

The Humane Society is ready willing and able to procure a ticket for Ms. Rhoades to appear at trial. In fact, that ticket was already purchased by the Office of the Prosecuting Attorney, and the Kauai Humane Society, if it can garner the cooperation of the prosecutor, is willing to pay any change-fee associated with Dr. Rhoades travel.

HRS § 711-1109.2 (1) provides: "If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. HRS §143-15 authorizes the Counties to contract with Humane Societies for 1) prevention of cruelty to animals; 2) for the seizure and impounding of all unlicensed dogs, and 3) for the maintenance of a shelter or pound for unlicensed dogs, and for lost, strayed, and homeless dogs.

HRS § 143-16 provides that "[p]ursuant to the authorization provided in section 143-15 the county council of the county of Kauai shall contract with the Kauai Humane Society, an incorporated nonprofit association organized under the laws of the State for the prevention of cruelty to animals, upon the subject matters contained in section 143-15" HRS § 143-16.

III. ARGUMENT

A. THE COURT HAS THE AUTHORITY TO ORDER THE APPOINTMENT OF A SPECIAL PROSECUTOR.

"The court's authority to order a prosecutor's disqualification is clear. In Sapienza v. Hayashi, supra, this court pointed out that "(i)n the exercise of its supervisory powers over grand jury proceedings, the circuit court may order the disqualification of attorneys attending the grand

jury where the integrity of the grand jury process and the proper administration of justice require it.” 57 Haw. at 292-93, 554 P.2d at 1134-35. And once this determination has been made, the order will not be set aside by this court unless a clear abuse of the circuit court's discretion has been shown. Id.” Amemiya v. Sapienza, 63 Haw. 424, 428, 629 P.2d 1126, 1130 (Hawaii, 1981).

HRS § 806-56, titled “Dismissals - Nolle prosequi” commands “No nolle prosequi shall be entered in a criminal case in a court of record except by consent of the court upon written motion of the prosecuting attorney stating the reasons therefor. The court may deny the motion if it deems the reasons insufficient and if, upon further investigation, it decides that the prosecution should continue, it may, if in its opinion the interests of justice require it, appoint a special prosecutor to conduct the case” HRS § 806-56.

Here, movant contends that the circumstances of this case merit the court considering referral to the Attorney General or the appointment of a special prosecutor before entertaining any motion to dismiss this viable criminal case and before leaving the horses without protection and leaving the Humane Society with the bill for months of animal care – without possibility of restitution.

“While personal and political associations will not necessarily disqualify a prosecutor from taking part in a prosecution, we think that considering the circumstances attending the [] controversy, the circuit court acted properly in ordering [the prosecutor’s] disqualification.” Amemiya v. Sapienza, supra at 428, 1130.

Although factually dissimilar, the holding and the reasoning in Sapienza is instructive: “because public trust in the scrupulous administration of justice and in the integrity of the judicial process is paramount, **any serious doubt will be resolved in favor of disqualification.**” Id. at, 429, 1130. (emphasis added).

“If the county prosecutor declines to prosecute, then the matter must be referred to the state attorney general. If the attorney general declines to prosecute, then the only alternative is the appointment by the court of a special prosecutor who is not an “interested prosecutor”. For administrative reasons, a special prosecutor should not be appointed without the prior consent of the chief justice or the administrative director of the courts.” Department of Social Services, ex rel. Montero v. Montero, 7 Haw.App. 298, 303, 758 P.2d 690, 694 (Hawaii App.,1988).

“Whether a prosecutor ought to be disqualified by reason of personal and political associations would depend on the extent and degree of the relationship and the circumstances surrounding the particular case. (citation)” Amemiya v. Sapienza, 63 Haw. 424, 428, 629 P.2d 1126, 1130 FN2. (Hawaii, 1981).

Here, the request for referral to the Attorney General or appointment of a special prosecutor is appropriate based on the circumstances surrounding this particular case. Declarant, Jessica Venneman avers that the prosecutor recently became very angry with her while she was attempting to talk to a male in a house when “[o]ne of the officers at the scene told me the male in the house was Ms. Iseri-Carvalho’s cousin and he was married to someone who worked in her office.” Venneman Declaration. Prior to this incident there had not been any talk of dismissing this case.

Declarant, Blizzard recounts subsequent, attempts by the prosecutor to induce the Humane Society to discipline Ms. Venneman in some manner for her role in attempting to explain the dog licensing law to the male in the house. Blizzard Declaration. She details the prosecutor’s eventual tying the Humane Society’s action or non-action regarding Ms. Venneman in the 2012 dog-licensing attempt to whether or not the prosecutor will continue to prosecute the 2010 “horse case”. *Id.*

Indeed, the email from the prosecuting attorney to Ms. Blizzard states: “...You have been made aware of the credibility of one of the main witnesses that directly affect the integrity of this office’s reputation. We will not bringing Dr. Rhodes back and cannot in ethical conscience proceed when you have not resolved the issues regarding your employee.”

Email from Prosecutor dated February 25, 2012 and attached as “Exhibit A”.

Given the circumstances of this particular case, movant contends that recusal and appointment of a special prosecutor is warranted – particularly before dismissal is entered.

B. A SPECIAL PROSECUTOR IS WARRANTED WHERE THE PROSECUTING ATTORNEY REFUSES TO PROSECUTE CRIME AS THE KAUAI COUNTY CHARTER REQUIRES.

It appears from the declarations that the Prosecuting Attorney may assert unfettered discretion in deciding whether to continue with the prosecution of a particular offense, however such an unlimited discretion does not appear in the County Charter, which controls the

Prosecuting Attorney's mandate. Indeed the charter unambiguously requires that the Prosecuting Attorney shall prosecute all crime.

The Charter provides, inter alia, at ARTICLE IX Section 9A.03 entitled, Powers, Duties and Functions.

“The prosecuting attorney **shall**:

- A. Attend all courts in the county and **conduct on behalf of the people all prosecutions** therein for offenses against the laws of the State and the ordinances and regulations of the county.
- B. Prosecute offenses against the laws of the State under the authority of the Attorney General of the State...

Id. (emphasis added).

In this case, the Office of the Prosecuting Attorney properly commenced this prosecution. That same office has defended pretrial motions filed by the defendant. Various representatives of that office, including the Prosecuting attorney have repeatedly represented that this is a provable case. The “prosecution” of this case is well underway, and the County Charter requires that the prosecuting attorney “shall...conduct...all prosecutions.”

The use of the mandatory term “shall” negates any argument that the prosecutor has unfettered authority not to “conduct all prosecutions”. And while there may be many legitimate reasons that a case may properly be dismissed, a non-profit agency’s refusal to fire an employee with whom the prosecutor has had a disagreement – some eighteen months after the date of the alleged offenses - is not one of them.

“The duty of the prosecution is to seek justice, to exercise the highest good faith in the interest of the public...” State v. Radcliffe 9 Haw.App. 628, 644, 859 P.2d 925, 934 (Hawaii App.,1993).

In Radcliffe, the Court considered a whether a prosecutor’s agreement not to prosecute a witness for perjury, before the witness even testified violated the prosecutor’s professional obligations or denied the defendant a fair trial. The court considered whether Hawaii law placed limits on a prosecutor’s discretion and whether the Court could enforce those limits. In deciding that there were limits on prosecutorial discretion that should be overseen by the courts, the Court

specifically noted the trend in which judicial oversight of prosecutorial discretion is specifically being applied in examining a prosecutor's decision *not* to prosecute a case.

The court wrote, "there is an emerging minority rule regarding judicial review of the prosecutor's decision not to prosecute, generally based on the theory that courts and prosecutors share overlapping responsibilities which allow the court to act when the prosecutor's behavior has been irresponsible or unacceptable. *Id.* at 397. One court has said: "Of course, prosecutors have broad discretion to press or drop charges. But there are limits."

State v. Radcliffe 9 Haw.App. 628, 641-642, 859 P.2d 925, 933 (Hawaii App.,1993),

"The American Bar Association (ABA) has developed the following guidelines for the prosecutor's exercise of a discretion not to bring charges:

The prosecutor is not obliged to present all charges which the evidence might support. The prosecutor may in some circumstances and for good cause consistent with the public interest decline to prosecute, notwithstanding that evidence exists which would support a conviction. *641 Illustrative of the factors which the prosecutor may properly consider in exercising his discretion are:

- (i) the prosecutor's reasonable doubt that the accused is in fact guilty;
- (ii) the extent of the harm caused by the offense;
- (iii) the disproportion of the authorized punishment in relation to the particular offense or the offender;
- (iv) possible improper motives of a complainant;
- (v) prolonged non-enforcement of a statute, with community acquiescence;
- (vi) reluctance of the victim to testify;
- (vii) cooperation of the accused in the apprehension or conviction of others;
- (viii) availability and likelihood of prosecution by another jurisdiction.

ABA Standards Relating To The Prosecution Function and the Defense Function
§ 3.9(b) (1971).

State v. Radcliffe, 9 Haw.App. 628, 640; 859 P.2d 925, 933 (Hawaii App.,1993).

In this case, the Prosecuting Attorney's email dated February 25, 2012 sets forth the reasons it intends to dismiss this case. Not one of the eight considerations set forth by the ABA appear to have been considered. Indeed, the affidavits of Ms. Bilzzard and Ms. Venneman plainly set forth that the prosecution believes the defendant to be guilty and has a provable case. The case involves significant harm in the form of animal cruelty and the likely return of the horses to the defendant upon dismissal. Punishment is not an issue and all witnesses are prepared to cooperate and testify. Thus none of the acceptable reasons for dismissing a case are present.

Instead, the prosecutor states two justifications for her decision to dismiss the case – money and her dispute with the investigator. She writes: “We agree this is a very important case... We have expended thousands and thousands of dollars. We have limited resources. My office has bent over backwards to accommodate your needs. You have been made aware of the credibility of one of the main witnesses that directly affect the integrity of this office's reputation. We will not bringing Dr. Rhodes back and cannot in ethical conscience proceed when you have not resolved the issues regarding your employee.” Email from Prosecutor dated Feb. 25, 2012 and attached as “Exhibit A”.

Neither of these two reasons appear in the ABA guidelines regarding dismissal of criminal prosecutions. Indeed, cost is not an issue, and movant Humane Society has already secured financial commitments necessary to secure the presence of necessary witnesses at trial. Thus this prosecution will “cost” no more than any “standard” prosecution of sixteen counts of cruelty to animals. This leaves, the other reason the prosecutor refuses to prosecute these crimes against animals – she is concerned with her office's *reputation* if she goes prosecutes a case in which she has accused an investigator of misrepresenting a totally unrelated conversation, a year and a half after the subject investigation.

Movant suggest the appointment of a special prosecutor provides the best assurance that animal cruelty will not go unprosecuted and the Office of the Prosecuting Attorney will have its reputation left intact.

C. KAUAI HUMANE SOCIETY HAS STANDING TO MAKE THIS REQUEST BASED ON ITS CONTRACTUAL OBLIGATIONS TO EFFECT LAW-ENFORCEMENT AND AS A

STAKE-HOLDER IN AN ORDER OF RESTITUTION; IN THE ALTERNATIVE THE COURT HAS DISCRETION TO ORDER A SPECIAL PROSECUTOR, SUA SPONTE.

HRS § 711-1109.2 (1) provides: "If any pet animal is impounded pursuant to section 711-1109.1, prior to final disposition of the criminal charge under section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35, against the pet animal's owner, any duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals that is holding the pet animal may file a petition in the criminal action requesting that the court issue an order for forfeiture of the pet animal to the county or to the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals prior to final disposition of the criminal charge. HRS § 711-1109.2. The statute continues:

(2) Upon receipt of a petition pursuant to subsection (1), the court shall set a hearing on the petition. The hearing shall be conducted within fourteen days after the filing of the petition, or as soon as practicable.

(3) At a hearing conducted pursuant to subsection (2), the petitioner shall have the burden of establishing probable cause that the pet animal was subjected to a violation of section 711-1108.5, 711-1109, 711-1109.3, 711-1109.6, or 711-1109.35. If the court finds that probable cause exists, the court shall order immediate forfeiture of the pet animal to the petitioner, unless the defendant, within seventy-two hours of the hearing:

(a) Posts a security deposit or bond with the court clerk in an amount determined by the court to be sufficient to repay all reasonable costs incurred, and anticipated to be incurred, by the petitioner in caring for the pet animal from the date of initial impoundment to the date of trial; or

(b) Demonstrates to the court that proper alternative care has been arranged for the pet animal.

Notwithstanding subsection (3)(a), a court may waive, for good cause shown, the requirement that the defendant post a security deposit or bond.

Here, the Humane Society impounded the horses pursuant to 711-1109.1 and has been charged with violating HRS 711-1109. Accordingly, it is requesting that the court issue an order for forfeiture of the animals to the humane society, as it has expended approximately \$70,000 to date in caring for them.

HRS § 711-1109.2 (1) provides the Humane Society with the right to a hearing as to forfeiture *before* the criminal case is resolved.

There are additional reasons as to why this matter should be heard before the criminal case is resolved, including Humane Society's interest in obtaining an order of restitution.

In *Gamma Tech, U.S. v. Gamma Tech Industries, Inc.* 265 F.3d 917, 923 (9th Circuit 2001), the prosecution did not seek restitution on behalf of a victim of a crime. The victim (Pac Ship) sought to be heard on the matter of restitution and the court allowed the victim to move for restitution over the prosecutor's objection that was joined by the defendant. Defendant appealed the award of restitution, again claiming that the victim had no standing to make a request from a criminal court in which victim was not a *party* – and where the prosecutor opposed the request.

As the court wrote, “At the subsequent hearing on Pac Ship's restitution request, defendants and the government argued that Pac Ship had no standing to bring its request because only the government and the probation office are permitted to identify victims of a criminal offense and bring requests for restitution on their behalf. The district court rejected this contention, allowed Pac Ship to present evidence of alleged losses it had suffered as a result of the kickback scheme and gave the defendants an opportunity to present their own evidence in response. The subsequent hearings, fourteen in all, involved the presentation of extensive testimonial and documentary evidence, substantially prolonging the sentencing process. *U.S. v. Gamma Tech Industries, Inc.* 265 F.3d 917, 922 (C.A.9 (Cal.), 2001)

The appellate court upheld the trial court's decision to allow standing to the victim as a stake-holder in the court's restitution orders. “[...T] issue is not whether Pac Ship had standing to enter this case as a party; it clearly did not. Rather, the question is whether the district court acted within its authority when it permitted Pac Ship to present evidence on the question of whether the court should order restitution, even though Pac Ship is not a party.

U.S. v. Gamma Tech Industries, Inc. 265 F.3d 917, 923 (9th Circuit 2001).

Here, KHS does not seek standing as a party. As in Gamma Tech, Kauai Humane Society should be permitted to present evidence on the important issue of recusal and appointment of a special prosecutor, because the threatened dismissal directly impacts its claim to approximately \$70,000.00 in restitution funds.

HRS §706-646 governs victim restitution. It provides, *inter alia*, that “victim” includes a governmental entity, which has reimbursed the victim for losses arising as a result of the crime. Additionally, HRS § 711-1110.5 promises that “[t]he court shall order the defendant to

reimburse the duly incorporated humane society or duly incorporated society for the prevention of cruelty to animals for reasonable costs incurred to care, feed, and house any animal that is surrendered or forfeited pursuant to this section¹. HRS § 711-1110.5.

Here, the Humane Society has incurred significant costs in boarding 16 horses over the course of nearly two years, based on repeated assurances from the Office of the Prosecuting Attorney that this is a viable case. Given these representations, along with the other circumstances in this matter, movant suggests that review and reassignment of the case to the AG or to special counsel is necessary to recover restitution for funds expended in reliance on assurances of a zealous prosecution.

Clearly the legislature intends such restitution costs to be borne by perpetrators of animal cruelty, yet the purpose of Hawaii's restitution statute would be thwarted and those costs shifted to those who donate to the Humane Society if a provable case were dismissed for improper reasons. Movant suggests that Gamma controls and KHS should be permitted a limited standing to appear in the case and for the sole purpose of presenting information necessary for the court to decide whether to appoint a special prosecutor.

As the United States Supreme Court has stated, "At least 36 States permit the use of victim impact statements in some contexts, reflecting *a legislative judgment that the effect of the crime on victims should have a place in the criminal justice system*. See National Organization for Victim Assistance, *Victim Rights and Services: A Legislative Directory* 32-33 (1985) (chart); McLeod, *Victim Participation at Sentencing*, 22 *Crim.L.Bull.* 501, 507, and n. 22 (1986). Congress also has provided for victim participation in federal criminal cases. See Fed. Rule *Crim.Proc.* 32(c)(2)(C)." Booth v. Maryland, 482 U.S. 496, 509, 107 S.Ct. 2529, 2536 (U.S.Md. 1987). (emphasis added).

Additionally, KHS has a contractual duty to the County of Kauai that in which it is specifically obligated to care for animals in such situations and to assist in the enforcement of animal cases. As a holder of this unique hybrid position in which it is both a non-profit

¹ The commentary to this section notes: "Act 238, Session Laws 2006, amended this section to clarify that animal care costs incurred for abused or neglected animals will be the responsibility of the abuser. These animals are often left in the custody of humane societies while the court resolves the criminal case against the abuser. A case often takes months or years to be resolved, while the animals are cared for at the humane society's expense. Act 238 made it clear that it is

organization that cares for animals and also empowered to enforce certain criminal laws related to animals, the Humane Society it is particularly positioned to assist the Court in determining whether to appoint a disinterested prosecutor. Unlike a case involving a police department that has access to the Offices of the County Attorney and the Attorney General if it has evidence that creates an appearance that a prosecution was in jeopardy of being dismissed for improper reasons, cases investigated by the Humane Society have no recourse as to an appearance of impropriety except to ask the court to consider whether a special prosecutor is warranted.

Pursuant to that Humane Society's contract with the County of Kauai, "Society shall provide services necessary to protect, capture, care and dispose of small animals that were customarily and historically performed by the animal wardens formerly employed by the County Department of Public Works. The Society shall also respond to public request for assistance in matters relating to the welfare and safety of small animals including, but not limited to, the capture of unleashed or stray animals, capture of dangerous or diseased animals, and collection and disposal of small animal carcasses on public roads.

State law contemplates such contracts as those between KHS and the County of Kauai, and the purpose and integrity of those contracts is best maintained by allowing the court to consider the declarations and request for a special prosecutor.

IV. CONCLUSION

For all of the above reasons, and for the reasons set forth in the declarations, Petitioner requests recusal and an opportunity to be heard before any order of dismissal is signed.

DATED: Lihue, Hawai'i, March 1, 2012.



DANIEL HEMPEY
Attorney for KAUA'I HUMANE SOCIETY

the abuser who is financially responsible for the care of the animals." Conference Committee Report No. 7-06, Senate Standing Committee Report No. 2579.

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

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vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

DECLARATION OF SHANNON
BLIZZARD

DECLARATION OF SHANNON BLIZZARD

I, Shannon Blizzard, hereby declare, under penalty of law that the following is true and accurate to the best of my knowledge and belief.

1. I was hired as the executive director for the Kauai Humane Society on approximately September 6, 2011.
2. My responsibilities as the executive director are, among other things, to effectively and efficiently direct, manage, administer and support the operation programs and budget of the Kauai Humane Society. I am responsible for the overall operation of the Kauai Humane Society.
3. The Kauai Humane Society's mission is dedicated to ensuring compassionate, informed care of all Kauai's animals and promoting the human-animal bond.
4. The Kauai Humane Society served a search warrant on May 30, 2010 and seized 16 horses and issues 16 citations for animal cruelty. Since that date, the 16 horses have been in the care and custody of the Kauai Humane Society. It costs the Humane Society approximately \$1,000.00 per week to care for the horses. The Humane Society has paid approximately \$70,000.00 to date in caring for the horses.

5. As a result of the seizure and citations, the Kauai Prosecuting Attorney's Office filed 16 charges in Re: State of Hawaii v. Lara Butler-Brady Criminal No. 10-1-0181.
6. As the executive director for the Kauai Humane Society, it is my responsibility to oversee the events related to the horses.
7. Shaylene Iseri-Carvalho is the Prosecuting Attorney for the County of Kauai, State of Hawaii.
8. Melinda Mendes is the deputy prosecuting attorney assigned to prosecute the Lara Butler-Brady case.
9. Mr. Craig De Costa is the attorney representing Lara Butler-Brady on Criminal No. 10-1-0181.
10. On numerous occasions, Ms. Mendes had stated her confidence in the case. She said we have a "strong case."
11. On December 20, 2011, I received my first communication from Ms. Iseri-Carvalho. I received an email from her stating that she wanted to speak to me regarding some issues on reports and citations. After doing some research, I responded to her via email on December 23, 2011.
12. I received a follow up email from Ms. Iseri-Carvalho on January 2, 2012 at 3:13 PM. Although the email chain had been the same from the prior emails, the subject matter had been changed to, "COMPLAINT REGARDING THE CONDUCT OF JESSICA VENNEMAN." The email read in part, "On another note, I need to talk to you immediately regarding Humane Society Officer Jessica Venneman. Please call me as soon as you are available."

13. Jessica Venneman is a Field services manager for the Kauai Humane Society. It is her responsibility to respond to animal needs outside of the shelter. She also is responsible for supervising the animal control officers.
14. I was able to reach Ms. Iseri-Carvalho on the phone on or about 3:25 PM. Ms. Iseri-Carvalho relayed the following in her conversation to me:
 - a. Ms. Iseri-Carvalho had heard complaints about Jessica in the past but she had taken them “with a grain of salt.”
 - b. Ms. Iseri-Carvalho received a call from a complainant regarding Jessica. Ms. Iseri-Carvalho stated Jessica had done the following regarding that complainant’s case: Jessica violated the complainant’s 4th Amendment rights. Jessica needed a search warrant to enter the property. Jessica cannot give anonymous callers the same credibility as identified callers.
 - c. Ms. Iseri-Carvalho said she spoke to Jessica on the phone while Jessica was on the scene with the person who had called Ms. Iseri-Carvalho to complain. Ms. Iseri-Carvalho stated that Jessica had offended her during this phone call. Ms. Iseri-Carvalho said she did not want what happened with the complainant to jeopardize the horse case.
 - d. Ms. Iseri-Carvalho said any time the Kauai Humane Society enters anyone’s property they have to have a search warrant. She said people in Hawaii have the right to privacy. She said she just provided training to Jessica on these topics.
 - e. Ms. Iseri-Carvalho said this could damage Jessica’s credibility and have a bearing on the horse case or any other case that Jessica has been involved. She said all of

Jessica's cases from now on could be jeopardized. She said pending cases based on Jessica's prior could be thrown out.

- f. Ms. Iseri-Carvalho said this has happened at the Kauai Police Department with some officers.
- g. Ms. Iseri-Carvalho said she might have to tell the defense attorney Craig De Costa what Jessica had done because it affects her credibility. Ms. Iseri-Carvalho kept using the phrase, "fruits of the poisonous tree."
- h. Ms. Iseri-Carvalho said she did not want to put anything in writing to the Kauai Humane Society or make a formal complaint about Jessica. She had not decided what she was going to do.
- i. Ms. Iseri-Carvalho said she told Jessica she did not want to hear the details regarding the complainant's case. She only wanted to explain the law to Jessica.
- j. Ms. Iseri-Carvalho said Jessica offended her while they were on the phone. She said that during that phone call, Jessica implied to Ms. Iseri-Carvalho that Ms. Iseri-Carvalho was asking for special treatment for the complainant, who I later heard is married to an employee at the Office of the Prosecuting Attorney.

15. On this phone call with Ms. Iseri-Carvalho she did not say anything about the following topics:

- a. She did not inform me that the complainant was related and/or related to any of her employees.
- b. Ms. Iseri-Carvalho did not state the complaint involved a barking dog issue.
- c. Ms. Iseri-Carvalho did not say anything about Jessica allegedly lying.

16. As I was hanging up from the phone with Ms. Iseri-Carvalho, Jessica Venneman walked into my office at the Kauai Humane Society. She relayed the following about the issue/complaint that Ms. Iseri-Carvalho had spoken about:

- a. Ms. Venneman stated that she received a complaint about a barking dog. Ms. Venneman said that she responded to the detail several days after it had been reported.
- b. Ms. Venneman drove down a common driveway and parked in front of the complainant's house in the parkway.
- c. Ms. Venneman from her vehicle could see dogs in a kennel that were sleeping. She could see that they appeared fine.
- d. Ms. Venneman got out of her vehicle to make contact with the resident.
- e. The tenant of the residence came out of the house angry.
- f. Ms. Venneman introduced herself and told him about the nature of the call.
- g. Ms. Venneman could see that the dogs did not have license on them. She attempted to explain the licensing law. She asked if the dog licenses were somewhere else other than on the dogs.
- h. The tenant got angry and said he was going to call the police.
- i. Ms. Venneman told the tenant she could probably get them faster, offered to call them and then proceeded to use her cell phone to call Kauai Police Department dispatch.
- j. The tenant yelled at Ms. Venneman and accused her of trespassing. The tenant also stated he was going to call the prosecutor's office.
- k. After Ms. Venneman called the police, she left.

- l. Ms. Venneman said everything she saw was in plain view. She was in the driveway and did not enter his property. She did not need to enter his property because he came outside before she entered the gate.
- m. The tenant video taped Ms. Venneman while she was on the detail.
- n. She waited for the police to arrive. Two officers arrived to assist.
- o. One of the police officers had Ms. Iseri-Carvalho on the phone. He put the phone on speaker phone and had Ms. Venneman speak to Ms. Iseri-Carvalho.
- p. Ms. Iseri-Carvalho told Ms. Venneman that she did not have the right to be on the man's property.
- q. Ms. Iseri-Carvalho told Ms. Venneman that she violated the man's 4th Amendment rights.
- r. Ms. Venneman asked Ms. Iseri-Carvalho what is was that she wanted her to do. It appeared Ms. Venneman implied that she wanted to know if Ms. Iseri-Carvalho wanted her to give the tenant / complainant special treatment.
- s. Ms. Iseri-Carvalho accused Jessica of accusing her of favoritism.
- t. Ms. Venneman told Ms. Iseri-Carvalho 'that is not what I meant.' But that she was trying to understand the purpose of the phone call.

17. I told Ms. Venneman not to speak with Ms. Iseri-Carvalho and that I would be doing following up on this incident.

18. I received an email from Ms. Iseri-Carvalho on January 3, 2012 at 4:41 PM. It read as follows:

“Aloha Shannon, thank you for talking to me today. It was a conversation long overdue. We definitely look forward to working with you as we try to get more efficient in processing these issues. Mahalo, Shay”

19. On January 4, 2012 at 2:18 PM, I sent Ms. Iseri-Carvalho and Ms. Mendes an email. It read in part:

“Shay – Had a conversation with Jessica and we are all clear. She provided me with the handouts from the training session you referenced and I will take a closer look at them very soon.”

20. Not long after I sent the email, I received a phone call from Ms. Iseri-Carvalho. Ms. Iseri-Carvalho referenced the email and said something similar to, ‘we are not good to go.’

21. Ms. Iseri-Carvalho relayed the following during the phone call:

- a. Ms. Iseri-Carvalho had an ethical obligation to tell the defense that Jessica had lied to her.
- b. Ms. Iseri-Carvalho would file some type of motion with the court articulating how Jessica had lied to her.
- c. Ms. Iseri-Carvalho kept insinuating she was going to dismiss the horse case.
- d. Ms. Iseri-Carvalho had put her best attorney on the horse case with 20 years of experience.
- e. The prosecutor’s office had other important cases to worry about.
- f. Ms. Iseri-Carvalho had ethical obligations to report Jessica to the courts.
- g. Ms. Iseri-Carvalho said there were credibility issues with Dr. Becky (Rhoades) and now she had to deal with Jessica.

- h. Ms. Iseri-Carvalho said she had not discussed this with Ms. Mendes because she was not sure what she was going to do
 - i. Ms. Iseri-Carvalho implied the horse case was going to be dismissed because of Jessica.
 - j. During the conversation between Jessica and Ms. Iseri-Carvalho, Jessica denied to Ms. Iseri-Carvalho that she had insulted her integrity. Jessica said to her, 'I did not say that.'
22. Ms. Iseri-Carvalho was very angry on the phone. She repeated herself many times. She frequently used legal terms and concepts that I did not understand.
23. I told Ms. Iseri-Carvalho that I was confused and did not understand what she was talking about. I told her this was the first that I was hearing that there was an allegation that Jessica had lied to anyone.
24. I was confused what it was that Ms. Iseri-Carvalho wanted or how this could be resolved. She appeared to have concerns with Jessica's employment at Kauai Humane Society. I asked Ms. Iseri-Carvalho, 'if Jessica was no longer a humane officer, would you be able to work around it.'
25. Ms. Iseri-Carvalho replied with, 'well, that might help.' Ms. Iseri-Carvalho gave me the impression that would be a reasonable resolution.
26. Ms. Iseri-Carvalho implied she was would have to dismiss the horse case but that if Jessica were gone from the humane society it would help us.
27. I asked for a face to face meeting with Ms. Iseri-Carvalho. We agreed on Friday January 6, 2012 at 3 PM at her office.

28. On Friday January 6, 2012 at 3 PM Orianna Skomoroch and I met with Ms. Iseri-Carvalho and Jake Delaplane. There was also a female employee in the room who appeared to be taking notes.
29. Ms. Iseri-Carvalho started the meeting by demanding to know what Jessica had told me regarding the incident with the complainant / tenant.
30. I gave an abbreviated version of what Ms. Venneman had relayed to me. I had covered the following:
- a. It was a barking dog complaint.
 - b. The call was received several days earlier.
 - c. Ms. Venneman had pulled into the common driveway.
 - d. The dogs were in good condition.
 - e. Made contact with the tenant of the house.
 - f. Noticed that the dogs were not licensed.
 - g. Tried to find out the status of the dog licensing.
 - h. Tenant became angry and yelled at Ms. Venneman.
 - i. Tenant told Ms. Venneman that she was trespassing.
 - j. Ms. Venneman called the police and left the property.
 - k. Police arrived on the scene.
31. Ms. Iseri-Carvalho said that the detail was “stale” and that Jessica should not have responded to a detail that was stale.
32. Ms. Iseri-Carvalho said Jessica should have left immediately after the man told her she was trespassing and to leave his property.

33. Ms. Iseri-Carvalho tried to get me to commit to the number of times that Jessica said she had been told she was trespassing. I could not guarantee any number as I had not asked.
34. Ms. Iseri-Carvalho had Mr. Delaplane show a video tape of the incident. The recording lasted approximately 30 seconds.
35. As the recording played and shortly afterwards, Ms. Iseri-Carvalho kept repeating, "see how many times he told her to leave?"
36. Ms. Iseri-Carvalho tried to get me to acknowledge and/or agree with her that Jessica had lied to me.
37. I did not see anything in the video that was different from what Ms. Venneman had told me. I told Ms. Iseri-Carvalho, 'I think we need to have some conversations on our end.' I felt training was in order.
38. Ms. Iseri-Carvalho agreed with me that the conversation between Ms. Venneman and Ms. Iseri-Carvalho regarding the use of the phrase, 'that is not what I meant' could have been meant and been interpreted many different ways and it was reasonable to think that no one had been lying.
39. Ms. Skomoroch kept reminding Ms. Iseri-Carvalho that the horse case was a good case. They (Mr. Delaplane and Ms. Iseri-Carvalho) said they did not know what they were going to do.
40. Ms. Iseri-Carvalho said she had not talked to Ms. Mendes about this issue.
41. Ms. Iseri-Carvalho made the horse case all about Jessica and her credibility.
42. I asked Ms. Iseri-Carvalho, 'if Jessica was no longer a member of Kauai Humane Society, are we able to salvage this case?'
43. Ms. Iseri-Carvalho nodded her head in the affirmative and said, 'that would help.'

44. I looked over at Mr. Delaplane who was looking down at the ground and he said, 'I don't know. It's crippled.'
45. Ms. Skomoroch and I continued to remind them about how strong they had said the case was and how important this case was.
46. Ms. Iseri-Carvalho again told them about all the other cases her office is currently working.
47. I left the office not knowing what Ms. Iseri-Carvalho was going to do regarding the horse case if I did not fire Ms. Venneman.
48. On January 11, 2012, I mailed Ms. Iseri-Carvalho a letter. It read:
- Dear Ms. Iseri-Carvalho, Thank you for bringing to our attention the recent matter concerning a Kauai Humane Society Employee involved in an investigation of an animal welfare concern related to an excessively barking dog. Please be advised that this is a personnel matter within the Kauai Humane Society and we will take appropriate action.
49. On Thursday January 12, 2012 at approximately 12:00 PM, I received a phone call from Ms. Iseri-Carvalho. She said there had been another incident with Jessica. She quickly said:
- a. Jessica had left water for a dog.
 - b. She had left her business card on the property.
 - c. There was a message on the business card.
50. I was not able to speak to Ms. Iseri-Carvalho at the moment. I called her back in a few minutes. Ms. Iseri-Carvalho relayed the following:

- a. An employee (Renie Judd) came to her with a business card from Jessica. The employee was upset with Jessica.
- b. This was the same employee who had listened to the conversation between Ms. Iseri-Carvalho and Jessica on the barking dog complaint.
- c. It was obvious to Ms. Iseri-Carvalho that her conversations last Friday had ‘fallen on deaf ears.’
- d. Ms. Iseri-Carvalho said this was incredible on Jessica’s part and now ‘her credibility is totally shot. We can’t support an agency that tramples on the 4th Amendment.’

51. I told Ms. Iseri-Carvalho that we needed to give Ms. Venneman the right to provide her side of the story.

52. Ms. Iseri-Carvalho continued:

- a. She provided training for Jessica and that she should know the rules.
- b. The employee is considering filing trespassing charges against Jessica, which would jeopardize the horse case.
- c. “After I gave you orders, uh, suggestions...” ‘My suggestions do not appear to mean anything.’
- d. Now two people have been impacted by Jessica.

53. I told Ms. Iseri-Carvalho that it had only been a week and that we were still working on our policies. We were looking for someone to improve our policies.

54. Ms. Iseri-Carvalho said, “our policy” does not matter what your interpretation is. What matters is “ours.”

55. Ms. Iseri-Carvalho talked about how the horse case is damaged.

56. I asked her, "are you doing to dismiss this case?"
57. Ms. Iseri-Carvalho replied, 'that is where we are.'
58. Ms. Iseri-Carvalho suggested we might be able to "salvage" the case if Jessica spoke with the complainant in this new case. Ms. Iseri-Carvalho suggested that Jessica get the complainant to make a statement that Jessica was not trespassing. Ms. Iseri-Carvalho said, 'if it is resolved, it might help.'
59. Ms. Iseri-Carvalho was concerned that all of her conversation had "fallen on deaf ears.' I reminded her that all our conversations had only occurred within the last week.
60. I asked for something in writing on this issue and if she was going to dismiss the horse case. Ms. Iseri-Carvalho did not respond.
61. During the afternoon of January 12, 2012, I spoke with Ms. Venneman regarding this incident. Ms. Venneman told me the following:
- a. She responded to a call of abandoned animals without water.
 - b. She knew both the complainant and the dog owner from numerous calls in the past.
 - c. Although she did not believe this was a legitimate call, she believed she was obligated to still take it seriously.
 - d. Jessica knew the property owner, Darren, from prior contacts. She found no one home at the residence and checked of the welfare of the dogs in the backyard. She found some of the dogs without water. She gave the dogs some water.
 - e. As she had done in the past, she left her business card with a note for Darren letting him know she had been by again and gave the dogs water. She asked him to call her.

During the weeks that I had been having conversation with Ms. Iseri-Carvalho, I also had conversations with Ms. Mendes. Ms. Mendes said she did not have any issues with Jessica's credibility.

62. Ms. Mendes said, 'I have never found Jessica to be dishonest. She has been truthful with me. I've never questioned her credibility. If I did, I would submit that information.'

63. I did not have any communications with Ms. Iseri-Carvalho between January 13, 2012 and February 23, 2012. I had been copied on one email from Ms. Iseri-Carvalho to Ms. Mendes on February 18, 2012 regarding the plea negotiations with Ms. Butler-Brady.

The email read:

There is no difference in result whether she pleads no contest, thus I am approving that she has option of pleading no contest or guilty.

Shay

Sent from my iPhone

64. Between February 10, 2012 and February 23, 2012, I exchanged emails and spoke with Ms. Mendes numerous times regarding possible terms of a plea agreement with Ms. Butler-Brady. One evening while I was at home, Ms. Mendes telephoned me. While we are on the phone, she noticed an email from Ms. Iseri-Carvalho. There was panic in her voice as she thought she had just been fired. Ms. Mendes relayed the following:

- a. She had just noticed an email from Ms. Iseri-Carvalho.
- b. She read the email, 'I, and other people, have issues with Jessica and the reputation of this office. If you do not agree with us, this might not be the right office for you.'

65. On Friday February 12, 2012 at approximately 11:30 AM, I met with Ms. Mendes in my office to discuss the plea agreement. Orianna Skomoroch and Elizabeth Freitas were also present for this meeting.
66. On Thursday evening of February 23, 2012, I spoke with Ms. Mendes on the telephone. She relayed to me that Ms. Butler had not taken the plea offer.
67. I told Ms. Mendes that Ms. Iseri-Carvalho had threatened to drop the case. I asked her what the status was now.
68. Ms. Mendes relayed the following:
- a. She spoke with Ms. Iseri-Carvalho and told her the plea did not go through.
 - b. She asked for permission to proceed with the trial.
 - c. Ms. Iseri-Carvalho said their office was not going to pay to fly Dr. Becky (Rhoades) to the trial.
 - d. Ms. Iseri-Carvalho told Ms. Mendes that she is going to dismiss the case on the day of the trial.
 - e. Ms. Mendes asked Ms. Iseri-Carvalho what their grounds were for dropping the case.
 - f. Ms. Iseri-Carvalho said Ms. Mendes would state she is not prepared to go to trial and request the case be dismissed.
 - g. Ms. Mendes told me she was not going to take the fall on this case. She said she would not be "fucked over."
 - h. Ms. Mendes said I needed to talk to Ms. Iseri-Carvalho about the status of the case.

69. On February 24, 2012 at approximately 9:00 AM, I left a voice mail message for Ms. Iseri-Carvalho to call.
70. On February 24, 2012, I faxed a letter to the victim / witness program at the Kauai Prosecuting Attorney's Office enquiring if they would be making arrangements for Dr. Rhoades appearance at trial.
71. Approximately five minutes after faxing the letter to victim / witness program, Ms. Iseri-Carvalho called me. I told her I would call her right back. I called her back in approximately 20 minutes later. She did not answer. I left a voice mail message for her.
72. On February 25, 2012 at approximately 4:30 PM, I received an email from Ms. Iseri-Carvalho. It stated the following:

Aloha Shannon,

I just was handed a letter dated February 24, 2012 that was addressed to Marla Torres-Lam regarding Lara Butler-Brady's trial. As you already know, we have made numerous exceptions in this matter which our office can longer afford to do. The OPA never authorized any witnesses back from the Mainland for a misdemeanor case, except in this case. We agree this is a very important case. For this reason, it is extremely rare that we have an experienced felony deputy utilize her experience on a misdemeanor case when she has almost 100 serious, heinous felony cases that total thousands of criminal counts. This was a huge exception. We have expended thousands and thousands of dollars. We have limited resources. My office has bent over backwards to accommodate your needs. You have been made aware of the credibility of one of the main witnesses that directly affect the integrity of this office's reputation. We will not bringing Dr. Rhodes

back and cannot in ethical conscience proceed when you have not resolved the issues regarding your employee. (emphasis added). This information has already been provided to you in person at our last meeting.

Shaylene Iseri-Carvalho

73. On February 26, 2012 at 8:40 p.m., I sent an email to Ms. Iseri-Carvalho and Ms. Mendes with the following letter attached:

Aloha Shaylene,

The supporters of the Kauai Humane Society are willing to take care of the flight arrangements for Dr. Rhoades. We will have her here for the March trial date.

KHS has resolved the issues regarding our employee. We have found nothing to indicate that our employee is not credible.

We know the horse case is a strong case. Both you and your staff have reminded us on numerous occasions. We have continued to care for the horses because of these beliefs and assurances. We appreciate you putting such an experienced and highly qualified person on the case. I am sure you understand our priority is for the safety and the welfare of the animals. If this matter were not brought to justice, these animals would be returned to the tortuous life from which they came.

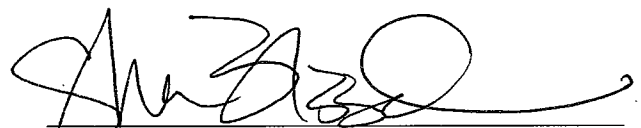
Please let us know what we can do to prepare for the March trial date.

74. The Kauai Humane Society has previously been told by both Ms. Mendes and Ms. Iseri-Carvalho that the case against Ms. Butler-Brady is a strong case. Ms. Mendes said she expects Ms. Butler-Brady to be found guilty on almost all of the counts against her. We have paid for all expenses associated with the care and custody of the horses. We

continued to care for the horses in the good faith belief that the Prosecutor's Office would also in good faith carry out the duties of their job.

75. On May 30, 2012, 16 horses were seized pursuant to a search warrant. Since that time, these 16 horses have been in the care and custody of the Kauai Humane Society.
76. When the horses were seized most of them were emaciate, neglected and would not have survived without food, water and medical attention.
77. As of March 1, 2012 the Kauai Humane Society has expended approximately \$70,000 for care and custody of the horses. The expenses included medical care, food, farrier professional trainers / groomers and personnel costs.
78. We maintained care and custody of the horses while the criminal case proceeded through the court system. We were assured numerous times by the prosecutor's office that we had a strong case. A request had made by the prosecutor to the judge that the jury be allowed to view the horses during trial. This further required us to continue to maintain the care and custody of the horses as we believed they were being held as evidence in the criminal case.

DATED: Lihue, Hawaii, March 1, 2012.



SHANNON BLIZZARD

Declarant

DANIEL G. HEMPEY 7535
HEMPEY & MEYERS LLP
3175 Elua Street, Suite C
Lihu'e, Hawai'i 96766
Tel. (808) 632-2444
Fax. (808) 632-2332

Attorneys for KAUAI HUMANE SOCIETY

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

DECLARATION OF JESSICA
VENNEMAN

DECLARATION OF JESSICA VENNEMAN

I, Jessica Venneman, hereby declare under penalty of law that the following is true and accurate to the best of my knowledge and belief.

1. I was hired by the Kauai Humane Society in approximately May 2008. My current position is Field Service Manager.
2. It is my responsibility, among other things, to respond to animal needs outside of the shelter. I am also responsible for supervising the animal control officers.
3. I was an investigator on a complaint in 2010 of neglected horses that were owned by Lara Butler-Brady.
4. I was part of the execution of a search warrant that was served on May 30, 2010 on Ms. Butler-Brady's property. Sixteen horses were seized and sixteen citations were issued for animal cruelty. Since that date, the 16 horses have been in the care and custody of the Kauai Humane Society.
5. As a result of the seizure and citations, the Kauai Prosecuting Attorney's Office filed 16 charges in State of Hawaii v. Lara Butler-Brady Criminal No. 10-1-0181.

6. Dr. Rhoades and I are the main witnesses for the Lara Butler-Brady case (horse case).
7. In 2011, I attended a class taught by Ms. Iseri-Carvalho. The class was about the 4th Amendment and other issues that pertain to law enforcement officers.
8. In 2011, I met with Ms. Orianna Skomoroch and Ms. Iseri-Carvalho one time regarding the horse case. I attended a different meeting with Orianna Skomoroch in which Ms. Iseri-Carvalho was present. The meeting was about personal information on citations. I do not recall any other interactions with Ms. Iseri-Carvalho during my tenure with the Kauai Humane Society.
9. I never solicited advice from the Prosecuting Attorney Shaylene Iseri-Carvalho.
10. I do not socialize or know Ms. Iseri-Carvalho away from work.
11. Prior to January 2012, I had never been contacted by the Prosecutor's Office while I was in the field on a detail.
12. On approximately December 29, 2011, the Kauai Humane Society received a complaint regarding a howling dog. I was later assigned to respond to that complaint. The dog was reported to be on Pepe Road between the Kauai Custom Marine (4487 Pepe Road) and the green house.
13. On January 3, 2012 at approximately 1:45 PM, I responded to the reported area of the howling dog.
14. I pulled into the parking lot / driveway for the Kauai Custom Marine. As I entered the lot, I noticed two houses on the left hand side of the parking lot / driveway. The second house, or further house in, matched the complainant's description.
15. As I pulled in the parking lot / driveway, I could see a chain link fence in front of the second house. Behind the chain link fence, I saw dog kennels. As I drove up to house, I could see there were dogs were upside down sleeping in the kennels.
16. I parked my Kauai Humane Society vehicle in front of the second house near the chain link fence. I could see from my vehicle that the dogs looked healthy and that they had water. I also noticed they did not have on a dog license.
17. The sound of my vehicle woke the sleeping dogs. I could see a male figure looking out the window of the green house as I exited my vehicle.

18. While the man stayed in the house near the window, I identified myself and told him I was there because of a complaint about howling dogs. I asked him to come outside to talk about the dogs.
19. The male came outside and was angry. He told me the dogs were fine.
20. I told him that I was just there to check and see that the dogs were OK, and I explained the licensing law for dogs and told him I noticed the dogs were not wearing licenses. I asked him if their licenses were located somewhere else.
21. The male became angrier and said he did not have to have licenses for his dogs. I again tried to explain the law.
22. The male said he was going to call the police. He then said he was going to call the prosecutor's office. He had a cell phone in his hand.
23. I offered to call the police for him as I explained I could probably reach them quicker than he.
24. The male spoke on his cell phone and said he was talking to the prosecutor's office.
25. I called the Kauai Police Department on my cell phone. I explained the nature of my detail, described my location and asked for police assistance.
26. I noticed that the male stopped speaking on his phone and was now apparently recording me with his cell phone. While recording me, he was yelling for me to get off his property. He said I was trespassing and had to leave. It appeared to me that I was in an area that was open to the public.
27. I tried to get the man's name from him but he continued to yell at me to get off his property. He did not provide his name.
28. The male yelled that he was going to have me arrested for trespassing.
29. While I on the phone with dispatch, I did not want to turn my back on the male to get into my vehicle to leave. I did not feel safe turning my back on the angry male.
30. After I left the parking lot, I parked across the street on Pepe Road near the church. This is where I waited for the police to arrive. The male continued to yell at me.

31. I called dispatch a second time before the police arrived. They said they were enroute.
32. Two police officers arrived on the scene. I recognized one officer as Officer Niau. I did not know the second officer.
33. I explained to Officer Niau what had occurred. I told him about the dog licenses and the need to issue them. I told him the male had accused me of trespassing. One officer went to the residence and the other officer waited with me by my truck.
34. Office Niau went over to speak with the male. I stayed by my vehicle and started filling out the paperwork for the dog licenses. I could not hear what the officer was doing.
35. Officer Niau returned to my location and was on the cell phone. I could hear him say something about someone wanting me arrested for trespassing. I learned that that Officer Niau was on the phone with Ms. Iseri-Carvalho.
36. Officer Niau spoke with Ms. Iseri-Carvalho on the phone while relaying messages back and forth between Ms. Iseri-Carvalho and me.
37. Officer Niau put his phone on speakerphone so they could both hear and speak.
38. I attempted to tell Ms. Iseri-Carvalho the nature of the call and what I had done. Ms. Iseri-Carvalho said she did not want to hear the specifics.
39. Ms. Iseri-Carvalho told me that I was trespassing and that I had no right to be there. She said this despite the fact that I was by my car and across the street from the subject house at the time.
40. Ms. Iseri-Carvalho said I should have read the male his Miranda rights before any questioning about the licensing.
41. Ms. Iseri-Carvalho told me I did not understand anything about the 4th Amendment.
42. I tried to explain to Ms. Iseri-Carvalho about our policies and what I was trying to do. I told her I did not believe that I had violated the male's rights. I told her essentially that I did not think that I had to Mirandize him as we were only discussing a potential dog-licensing violation and I disagreed with the accusation that I was trespassing.

43. Ms. Iseri-Carvalho was seemingly getting frustrated and upset with me. I became frustrated by the conversation also. I did not understand what it was that Ms. Iseri-Carvalho wanted me to do. I felt that she was telling me I had ruined any criminal case and that it would never be prosecuted. I had never intended to write a ticket. My goal was to check the welfare of the dogs and later, to issue the dog licenses. I tried to clarify what Ms. Iseri-Carvalho wanted from me on this detail.
44. I asked Ms. Iseri-Carvalho something similar to, 'do you want me to let this go?'
45. Ms. Iseri-Carvalho became even angrier and accused me of accusing her of giving people preferential treatment.
46. I said, 'that's not what I meant.'
47. Ms. Iseri-Carvalho became even angrier still and said that was what I said. I tried to explain my intention but she did not appear to want to listen. The phone call ended.
48. The officers helped me issue and complete the dog licenses for the dogs. Other people arrived on the scene and purchased licenses for their dogs too.
49. The licenses were issued were made out Troy Lanning and Kaiakapu Momi. Neither of these two people were the male in the residence.
50. Someone at the scene stated that the male in the house was prosecutor Iseri-Carvalho's cousin and he is also married to someone who works for the Office of the Prosecuting Attorney.
51. Since that incident on January 3, 2012, I have not spoken to or communicated with Ms. Iseri-Carvalho.
52. I have spoken with and assisted Darren Judd of Mahiai Road in Kalaheo numerous times in my capacity as a Humane Officer. My contact with him started approximately one year ago. During the last year, I handled approximately five complaints / calls involving Mr. Judd's dogs.
53. The first time I was detailed to Mr. Judd's house he was angry about the call and wanted the police. The police arrived and assisted me. I believe that Mr. Judd and I developed a positive relationship after that first call. Mr. Judd's neighbor called the humane society because of Mr. Judd's dogs. The neighbor complained

about barking dogs, the noise and then alleged that the dogs were abandoned, neglected and in need of water.

54. I worked with Mr. Judd about the care and maintenance of his dogs. We discussed medical care, how to keep water for the dogs and the neighbor. The dogs were overall healthy and in good shape. The kennels were kept clean.
55. During the year, I had been detailed to Mr. Judd's house for a few calls about the dogs. Many times Mr. Judd was not home. I checked the welfare of the dogs and gave several of the dogs water. I always left my card for Mr. Judd to call me and to let him know I had been out to the house. He never voiced any objection to me.
56. On January 6, 2012, I received a call from the front desk at Kauai Humane Society. It was reported that dogs may have been abandoned at Mr. Judd's house. I called Mr. Judd's home phone but no one answered. I went to the house.
57. I knocked on the front door. No one answered. Even though I knew the history of these calls from the neighbor, I feared that maybe something happened to Mr. Judd. I believed I needed to check the welfare of the dogs. I walked around the outside of the house. I found several of the dogs without water. I gave them water. The dogs all appeared to be healthy.
58. I left a business card for Mr. Judd. I wrote on the card that I had been there, gave the dogs water and asked him to call me. I received a call from him. I got his cell phone from him so I could reach him when he was not home. Mr. Judd expressed frustration with the neighbor.
59. Mr. Judd expressed his frustration that he felt the neighbor was using the humane society to harass him. He was searching for help to his problem with his neighbor. He was angry at his neighbor.
60. I have never met or saw the wife of Mr. Judd while at their property. However, I later heard that she works at the prosecuting attorney's office and is close friends with Ms. Iseri-Carvalho.
61. I have not spoken to Mr. Judd since the January 6, 2012 detail.

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62. I always strive to do what is the best for the animals of Kauai. My primary concern is for the safety of the animals.

DATED: Lihu'e, Hawai'i, February 28, 2012.



JESSICA VENNEMAN
Declarant

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

DECLARATION OF ELIZABETH
FREITAS

Declaration of Elizabeth Freitas

I, Elizabeth Freitas, hereby declare, under penalty of law that the following is true and accurate to the best of my knowledge and belief.

1. I am currently the president of the board of directors for the Kauai Humane Society.
2. My responsibility as a board member is to ensure that every aspect of the Society's operation is in full compliance with federal, state and county laws and to hire and fire the executive director.
3. On February 10, 2012, I met with Shannon Blizzard, Orianna Skomoroch and Melinda Mendes at the Kauai Humane Society. The meeting was to discuss a plea agreement with Ms. Butler-Brady.
4. Ms. Mendes discussed the details of a plea agreement she was working on to present to Mr. De Costa for his client, Ms. Butler-Brady.
5. Ms. Mendes discussed the strengths and weaknesses of the case. She explained the court process to include the appeal process. She understood the expense we were incurring for our care and custody of the horses.

6. Ms. Mendes expressed her confidence in the case. She believed if we went to trial, she could win the majority of the counts.
7. Ms. Mendes did not have any problems with Ms. Venneman's actions during the case.
8. Ms. Blizzard asked Ms. Mendes if she was ready for trial. Ms. Mendes said, 'On my level, yes.'
9. Ms. Mendes said she did not know what was happening above her and she did not want to know.
10. Ms. Mendes said we had to do what was in the best interest of the Kauai Humane Society.
11. Ms. Mendes said she is not a politician but that she worked for one.
12. Ms. Mendes said she has not asked Ms. Iseri-Carvalho if she was permission to continue with trial. Ms. Mendes suggested we talk to Ms. Iseri-Carvalho.
13. Ms. Mendes believed that Ms. Iseri-Carvalho would approve any plea she presented to her as long as the Humane Society supported it.
14. Ms. Mendes said she wanted to have a conversation with us that was "off the record." She said if we repeated this, she would be fired.
15. Ms. Mendes said she had no idea what Ms. Iseri-Carvalho was going to do but that she was concerned. She is hoping this is not over a 'personal vendetta.'
16. Ms. Mendes said she was working very hard on this plea deal because she was not sure what her boss was going to do and it worried her.
17. Ms. Mendes thought that Ms. Iseri-Carvalho should conflict out.
18. Ms. Mendes said we needed to protect the Kauai Humane Society and that we should force Ms. Iseri-Carvalho to make the allegation a formal investigation.

19. Ms. Mendes said Ms. Venneman has never lied to her. She does not know where these accusations are from.
20. Ms. Mendes is afraid she will be forced to “conflict out” because of the actions by her boss.
21. Ms. Mendes said she does not have any personal knowledge of the incident between Ms. Venneman and Ms. Iseri-Carvalho. Ms. Mendes thinks we should force Ms. Iseri-Carvalho to put it on the record.
22. Ms. Mendes does not know what Ms. Iseri-Carvalho’s stance is today. Ms. Iseri-Carvalho claims she has something but Ms. Mendes has not seen or heard it.
23. Ms. Mendes thought Ms. Iseri-Carvalho could be using this as leverage for something. She believed she would also sabotage the case for the attorney general’s office.
24. Ms. Mendes said if someone is unethical, then the information should be turned over immediately. If something is unethical the case should be dismissed or someone should “conflict out.”
25. Ms. Mendes said she is out of a job if her name comes up.
26. Ms. Mendes said she has never had Jessica lie to her. If she is a liar, the case should be dismissed.
27. Ms. Mendes thought that her office should recuse themselves from the case.
28. Ms. Mendes said the accusations have been going on for over a month with nothing being done formally.
29. Ms. Mendes said she plans to go to trial if the plea does not go through. She believed she was going to win some of the counts.
30. Ms. Mendes encouraged us to settle this case because it could get ugly.

31. Ms. Mendes said if Ms. Iseri-Carvalho is smart, she will let this go to trial.
32. We worked on a plea agreement that Ms. Mendes believed would be accepted by the defense based on her conversations with Mr. De Costa. I did not feel comfortable with but supported the plea agreement.
33. I supported the plea agreement out of fear of retribution against the Kauai Humane Society by Ms. Iseri-Carvalho.
34. Ms. Mendes gave Ms. Blizzard the subpoenas to be served on her employees for the March 12, 2012 trial date.

DATED: Lihue, Hawaii, March 1, 2012.



ELIZABETH FREITAS

Declarant

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

DECLARATION OF ORIANNA
SKOMOROCH

DECLARATION OF ORIANNA SKOMOROCH

I, Orianna Skomoroch, hereby declare, under penalty of law that the following is true and accurate to the best of my knowledge and belief.

1. I was the interim executive director for the Kauai Humane Society between September 20, 2010 and September 6, 2011.
2. My responsibilities as the interim executive director were to effectively and efficiently direct, manage, administer and support the operation programs and budget of the Kauai Humane Society. I was responsible for the overall operation of the Kauai Humane Society.
3. I am currently a board member for the Kauai Humane Society.
4. My responsibility as a board member is to ensure that every aspect of the Society's operation is in full compliance with federal, state and county laws and to hire and fire the executive director.
5. The Kauai Humane Society served a search warrant on May 30, 2010 and seized 16 horses and issues 16 citations for animal cruelty. Since that date, the 16 horses have been in the care and custody of the Kauai Humane Society.

6. As a result of the seizure and citations, the Kauai Prosecuting Attorney's Office filed 16 charges in Re: State of Hawaii v. Lara Butler-Brady Criminal No. 10-1-0181.
7. As the interim executive director for the Kauai Humane Society, it was my responsibility to oversee the events related to the horses.
8. While working as the interim executive director, we had an excellent relationship with the prosecutor's office while dealing with the horse case. Ms. Mendes was the third prosecutor assigned to prosecute Ms. Butler-Brady.
9. I have had a very good relationship with Ms. Iseri-Carvalho prior to and during my tenure. She invited Kauai Humane Society to training she provided about the 4th Amendment and training and updates regarding the tickets that are issued by both Kauai Police Department and Kauai Humane Society.
10. During my tenure, I spoke directly with the prosecutors handling the horse case. I communicated through emails and phone calls. Ms. Iseri-Carvalho was not included in the communications until September 26, 2011. Prior to that, she had not been included. After that period, it was sporadic as to whether or not Ms. Iseri-Carvalho was sent copies of emails.
11. On April 1, 2011 at 2:00 p.m., Ms. Venneman and I met with Ms. Mendes for the first time. We spent approximately three hours reviewing the horse case.
12. On May 24, 2011, a motion to compel discovery was heard at court. The Prosecutor's Office flew in Dr. Rhoades for this hearing. She was a primary witness in the motion. Motion was denied and trial was set for October 3, 2011

and at a pre-trial attorney conference on September 15th the trial was moved to November 7, 2011.

13. On October 25, 2011 a motion was granted to Mr. De Costa to determine penal responsibility and fitness to proceed for Ms. Butler-Brady. The November 7, 2011 was postponed. Ms. Mendes objected and stated a plane ticket had already been purchased for Dr. Rhoades' appearance for November 7, 2011. The Court re-set trial for March 12, 2012.
14. On October 31, 2011, I met with Ms. Iseri-Carvalho and Ms. Mendes. I wanted to discuss options regarding the care and custody of the horses because the trial was now postponed until March 2012. Ms. Iseri-Carvalho agreed that the horse case was important to the Prosecutor's Office as it was to KHS and that she assigned her best Prosecutor, Ms. Mendes, on the case.
15. On January 6, 2012 at 3:00 PM, I attended a meeting with Ms. Blizzard, Ms. Iseri-Carvalho and Jake Delaplane at the Prosecutor's Office. One of the first things Ms. Iseri-Carvalho asked Ms. Blizzard was if she had talked to Jessica to find out what had occurred.
16. Ms. Blizzard told Ms. Iseri-Carvalho what Ms. Venneman had told her. Ms. Blizzard did not tell her everything that would breach personnel confidentiality, but gave her many details.
17. After Ms. Blizzard was done, Ms. Iseri-Carvalho told Mr. Delaplane to show us the video tape.
18. Ms. Blizzard and I watched a video on a cell phone. It appeared the video was recorded through a window. The tape lasted 4 to 5 seconds. In the video, I saw

Ms. Venneman on the phone. Ms. Venneman tried to get the name from the male that was filming her. The male could be heard telling Ms. Venneman to get off his property. He said he was going to call the police. The background behind Ms. Venneman appeared to be a concrete parking lot. A chain link fence could not be seen.

19. At the conclusion of the recording, Ms. Iseri-Carvalho told Ms. Blizzard that Jessica had not told her the truth. Ms. Iseri-Carvalho insisted that Ms. Venneman had lied to Ms. Blizzard.
20. Ms. Iseri-Carvalho said Jessica was ordered off the property but she did not leave. Jessica did not get off the property the first time she was told. Ms. Iseri-Carvalho said that Jessica was trespassing.
21. I tried to speak to Ms. Iseri-Carvalho about Ms. Venneman's responsibility of following-up on issuing the dog license. I explained how we tried to make it a positive interaction by issuing the dog license instead of a ticket.
22. Ms. Iseri-Carvalho said the Kauai Humane Society investigation did not matter. Jessica was trespassing and should have left immediately.
23. Ms. Iseri-Carvalho said Jessica's lying jeopardized the entire horse case because of her credibility.
24. Ms. Iseri-Carvalho said Jessica is the primary witness. If the primary witness is not credible, the case will have to be dismissed.
25. Ms. Iseri-Carvalho said she had to notify the courts that the prosecution witness is not credible.

26. Ms. Blizzard asked if there was any way to salvage the case. Ms. Iseri-Carvalho said no because Jessica is their primary witness.
27. Ms. Blizzard asked what they could do to save the case. Mr. Delaplane said the case will be hard to “salvage” since Jessica is one of our witnesses.
28. Ms. Iseri-Carvalho again talked about Jessica’s credibility.
29. Ms. Blizzard told Ms. Iseri-Carvalho that the humane society would be reviewing their policies and procedures.
30. Ms. Iseri-Carvalho continued to talk about the case. She said this is serious because she has no confidence in Jessica.
31. Ms. Iseri-Carvalho said she knows Jessica lied and the video tape proves it. She said she will have to notify the court about this matter.
32. Ms. Blizzard asked Ms. Iseri-Carvalho, ‘if Jessica was removed from officer duty...’ I could not hear clearly the rest of the sentence but I could tell it was something about Jessica no longer being an officer at the humane society and if that would help the case.
33. I do not remember Ms. Iseri-Carvalho’s exact words but she responded with an affirmative answer and that it would improve their case.
34. Mr. Delaplane said the case is not over. He did not talk about Ms. Venneman.
35. Ms. Iseri-Carvalho said she had a legal obligation to report Jessica to the defense and to the courts.
36. Ms. Iseri-Carvalho was clearly upset with Jessica.
37. Ms. Iseri-Carvalho said she had put her best attorney on this case. She knew it was an important and strong case.

38. Ms. Blizzard asked to be given a warning if anything was going to happen regarding the horse case and re-confirmed that she would be reviewing the Humane Society's policies regarding licensing dogs in the field.
39. Ms. Blizzard said she would like to work to try and salvage the horse case.
40. We all left the meeting agreeing to stay in touch and get back together. It was not clear who was supposed to initiate the contact.

DATED: Lihue, Hawaii, March 1, 2012.


ORIANNA SKOMOROCH
Declarant

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

DECLARATION OF REBECCA
GAGNON

DECLARATION OF REBECCA GAGNON

I, Rebecca Gagnon, hereby declare, under penalty of law that the following is true and accurate to the best of my knowledge and belief.

1. I was hired by the Kauai Humane Society in November, 2002. My current position is Donor Liaison. It is my responsibility to coordinate the donor files.
2. On January 12, 2012 around 12:00 PM, I was asked by Shannon Blizzard to come into her office. Ms. Blizzard said she was returning a phone call to Ms. Iseri-Carvalho. Ms. Blizzard wanted me to witness the conversation. We could not get the speaker phone to work so I could only hear Ms. Blizzard's part of the conversation.
3. The conversation was regarding a business card that Officer Venneman left on the property of an employee of the prosecutor's office. The employee wanted to file a trespassing charge against Ms. Venneman.
4. There was discussion that Ms. Venneman had already been trained about these issues, which included abandonment. The dog is property of the owners. If there was a problem, Ms. Venneman should have gotten a search warrant.

5. Ms. Blizzard explained to Ms. Iseri-Carvalho that she would need to talk to Ms. Venneman regarding the incident.
6. Ms. Blizzard reminded Ms. Iseri-Carvalho that their last conversation had only taken place a week ago and that changes had not been made yet.
7. Ms. Blizzard spoke about the Kauai County contract.
8. Ms. Blizzard told Ms. Iseri-Carvalho that she was taking it seriously.
9. Ms. Blizzard repeated that Ms. Iseri-Carvalho had just said she was going to drop the horse case. Ms. Iseri-Carvalho said it was totally in her discretion to dismiss the case.
10. Ms. Blizzard explained that Ms. Venneman was only one witness. We have a good case. Ms. Iseri-Carvalho was talking about how this is bigger than just one person.
11. Ms. Blizzard questioned Ms. Iseri-Carvalho regarding what was the perceived problem with Ms. Venneman's credibility. It was clear the Ms. Blizzard did not understand what Ms. Iseri-Carvalho was complaining about.
12. Ms. Blizzard asked what the process was to drop the case. She asked if we would pursue a civil suit. Ms. Blizzard confirmed that Ms. Iseri-Carvalho would give her two weeks.
13. Ms. Blizzard complained that this was a one sided process. Ms. Venneman had not been given an opportunity to defend herself.
14. Ms. Blizzard discussed Ms. Venneman's employment with the humane society and how that could affect the case.

15. Ms. Blizzard did not back down from Ms. Iseri-Carvalho but I could see she was very distraught over what Ms. Iseri-Carvalho was saying to her. Ms. Blizzard was fighting for Ms. Venneman's job while trying to salvage the horse case. Based on the conversation that I could hear, it was as if Ms. Blizzard had to choose between Ms. Venneman's job or the horse case.

DATED: Lihue, Hawaii, March 1, 2012.


REBECCA GAGNON
Declarant

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

NOTICE OF HEARING ON PETITION

NOTICE OF HEARING ON PETITION

TO THE OFFICE OF THE PROSECUTING ATTORNEY:

PLEASE TAKE NOTICE that at _____ m. on _____, 2012

before the Honorable Judge Presiding, KAUA'I HUMANE SOCIETY will move for an order appointing a special prosecutor in the above-captioned matter.

DATED: Lihue, Hawai'i, March 1, 2012.



DANIEL HEMPEY

Attorney for KAUA'I HUMANE SOCIETY

-----Original message-----

From: Shaylene Carvalho <scarvalho@kauai.gov>

To: "''shannon@kauaihumane.org',"
<shannon@kauaihumane.org>

Cc: Melinda Mendes <mmendes@kauai.gov>

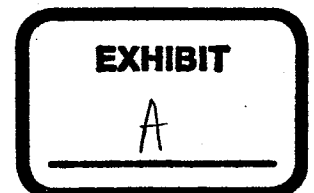
Sent: Sat, Feb 25, 2012 01:41:51 GMT+00:00

Subject: RE: FLIGHT ARRANGEMENTS

Aloha Shannon,

I just was handed a letter dated February 24, 2012 that was addressed to Marla Torres-Lam regarding Lara Butler-Brady's trial. As you already know, we have made numerous exceptions in this matter which our office can longer afford to do. The OPA never authorized any witnesses back from the Mainland for a misdemeanor case, except in this case. We agree this is a very important case. For this reason, it is extremely rare that we have an experienced felony deputy utilize her experience on a misdemeanor case when she has almost 100 serious, heinous felony cases that total thousands of criminal counts. This was a huge exception. We have expended thousands and thousands of dollars. We have limited resources. My office has bent over backwards to accommodate your needs. You have been made aware of the credibility of one of the main witnesses that directly affect the integrity of this office's reputation. We will not bringing Dr. Rhodes back and cannot in ethical conscience proceed when you have not resolved the issues regarding your employee. This information has already been provided to you in person at our last meeting.

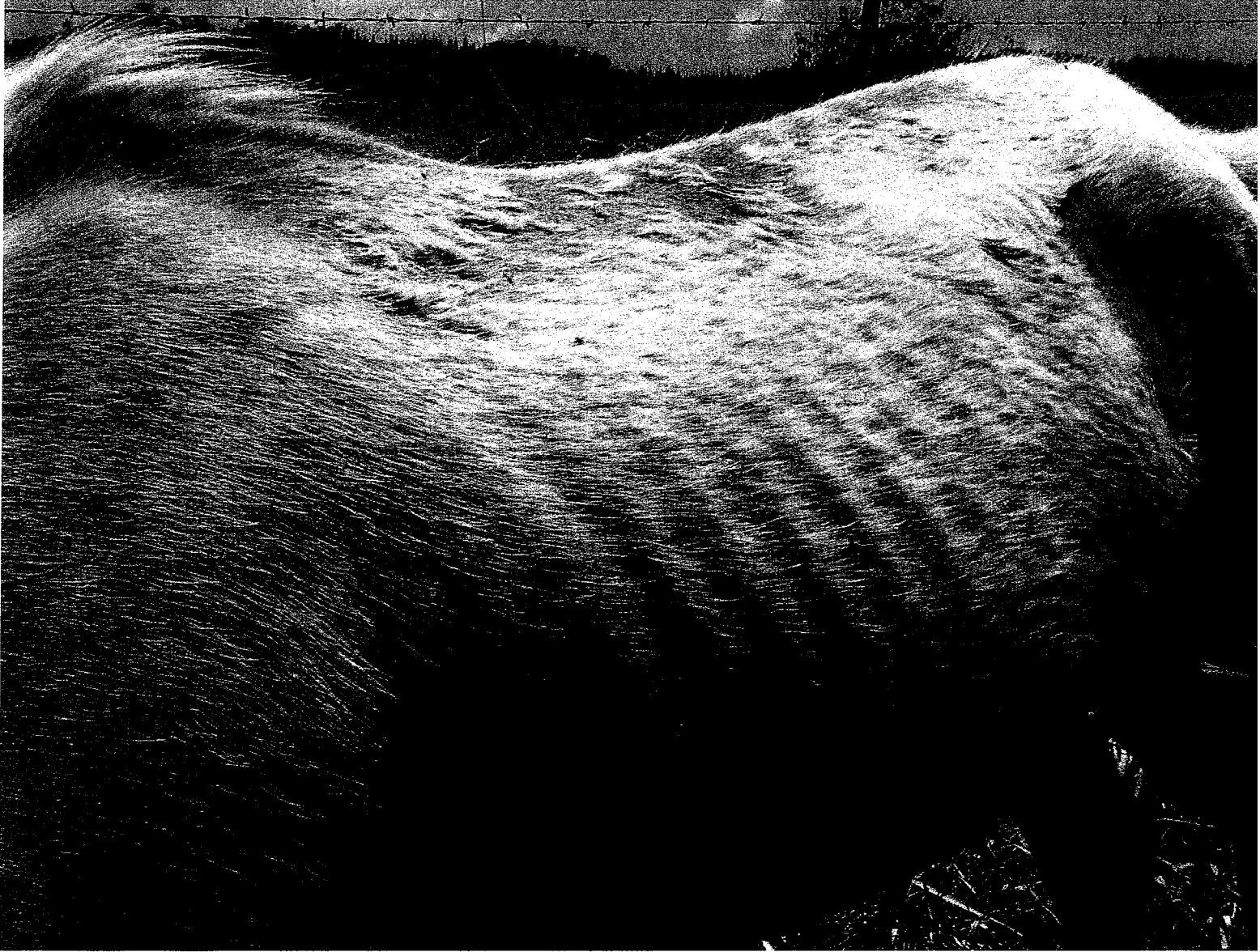
Shaylene Iseri-Carvalho





EXHIBIT

B



EXHIBIT

B

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT

STATE OF HAWAII

STATE OF HAWAII

vs.

LARA BUTLER-BRADY,

Defendant.

CR. NO. 10-1-0181

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I, the undersigned, hereby declare that I am a resident of the State of Hawai'i and am over eighteen years of age.

On March 1, 2012, I hand-delivered a copy of the foregoing document to the following via their Court Jackets at the Lihue Courthouse:

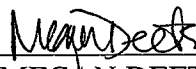
MELINDA MENDES, ESQ.
3990 Kaana Street
Lihue, Hawai'i 96766

Deputy Prosecuting Attorney

CRAIG DE COSTA, ESQ.
3175 Elua Street
Lihue, Hawai'i 96766

Attorney for Defendant

DATED: Lihue, Hawai'i, March 1, 2012.



MEGAN DEETS
Legal Assistant