

Animal Fighting in the United States

Emergent Trends

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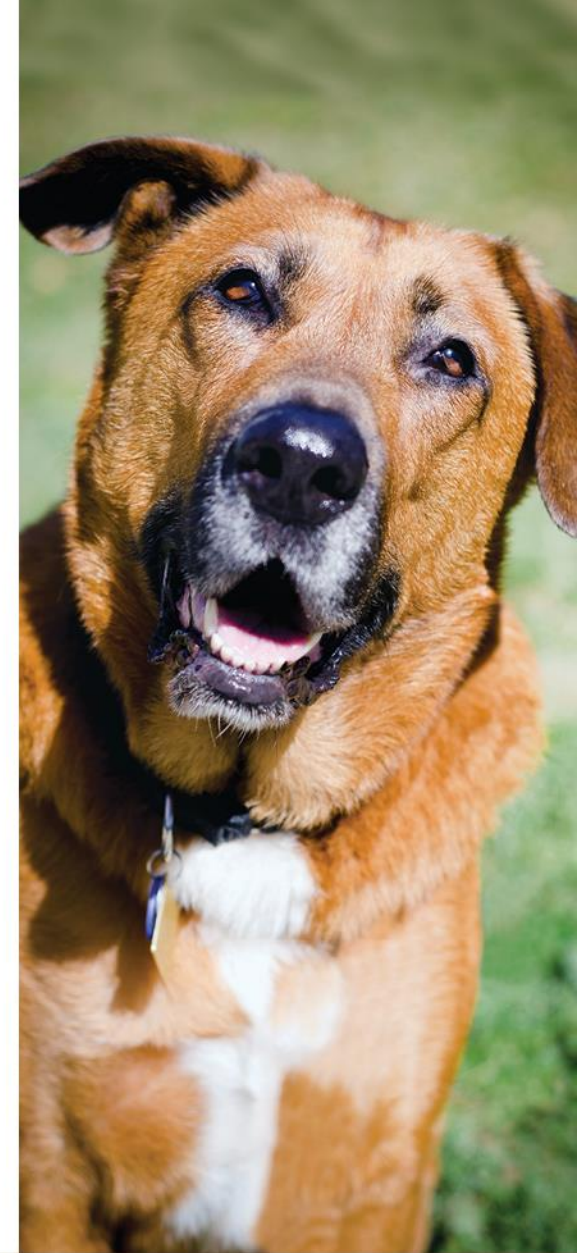
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CATCHING UP & GOING FORWARD

- **Animal Fighting in the USA—Part I Covered**
 - What *is* animal fighting?
 - A brief history of animal fighting in the USA
 - Criminalization of animal fighting
 - Facts on the ground
 - Animal fighting signs & screens
 - Direct intervention: raids, search, & seizure
- **Today**
 - A key turning point in animal fighting law
 - Shifting position of fought animals
 - Current legislative trends
 - New law; old challenges
- **Content Warning**



THE BAD NEWZ KENNELS CASES

- **Underlying Facts: April 2007**

- LEO search of 15 acre property in Surry County, VA
- Pursuant to investigation of dog fighting operation
- Dogs; paraphernalia; forensic evidence; etc.

- **Resulting Litigation**



United States
v.
Michael Vick



United States
v.
Approximately
53 Pit Bull Dogs



BAD NEWZ CRIMINAL CASE

- Criminal Charges
 - State
 - Federal
 - State Again
- Significance
 - Legal Issues
 - Social Response

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

Richmond Division

FILED
IN OPEN COURT
AUG 17 2007
CLERK, U.S. DISTRICT COURT
RICHMOND, VA

UNITED STATES OF AMERICA)
v.) CRIMINAL NO. 3:07CR274
QUANIS L. PHILLIPS,)
a/k/a "Q")
Defendant.)

SUMMARY OF THE FACTS

If this matter were to proceed to trial, the Government would prove the following facts beyond a reasonable doubt:

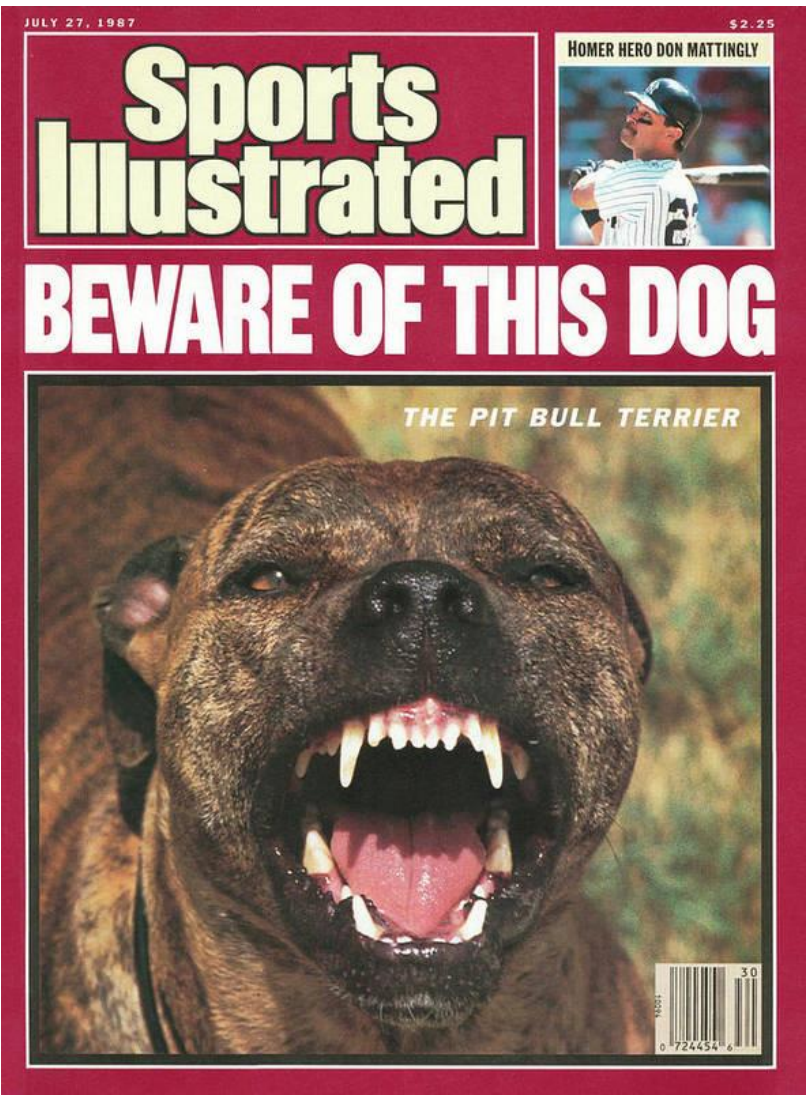
1. Beginning in or about early 2001 and continuing through in or about April 2007, in the Eastern District of Virginia and elsewhere, defendant QUANIS L. PHILLIPS, also known as "Q," knowingly and unlawfully combined, conspired, confederated and agreed with PURNELL A. PEACE, also known as "P-Funk" and "Funk," TONY TAYLOR, also known as "T," MICHAEL VICK, also known as "Ookie," and with other known and unknown persons, to commit the following offenses against the United States, to wit:



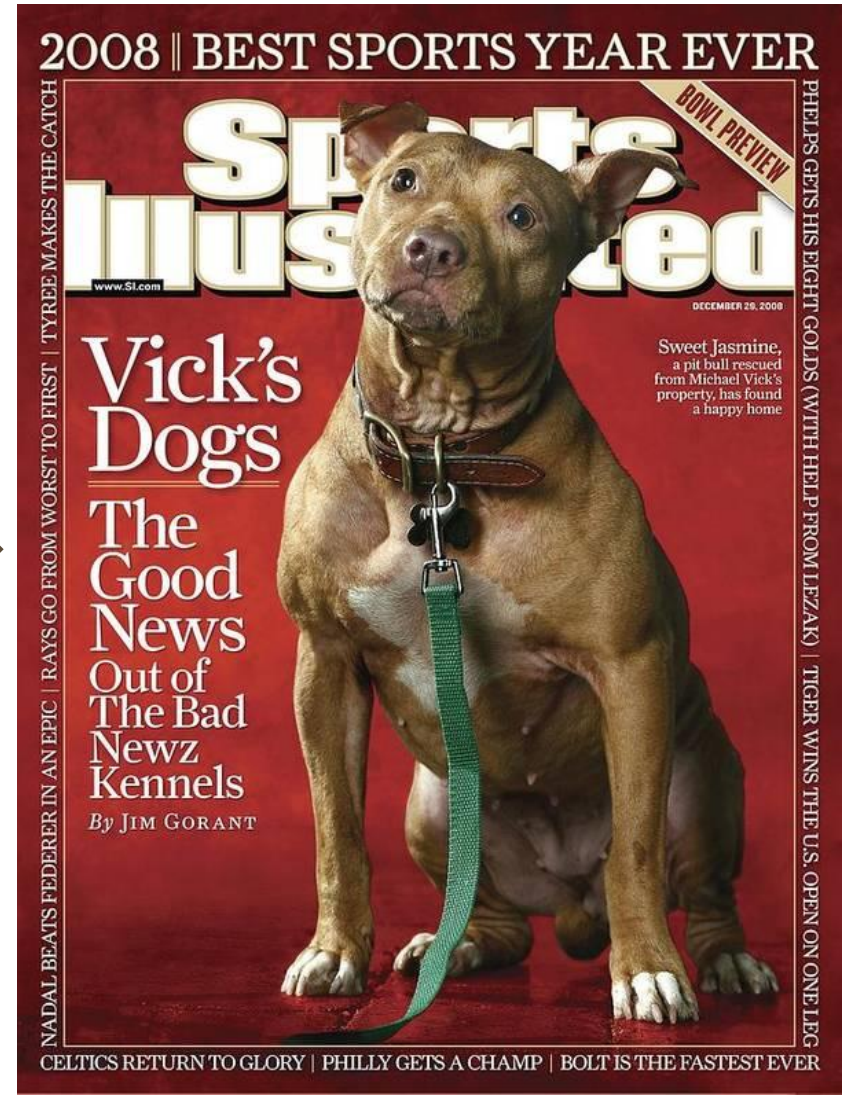
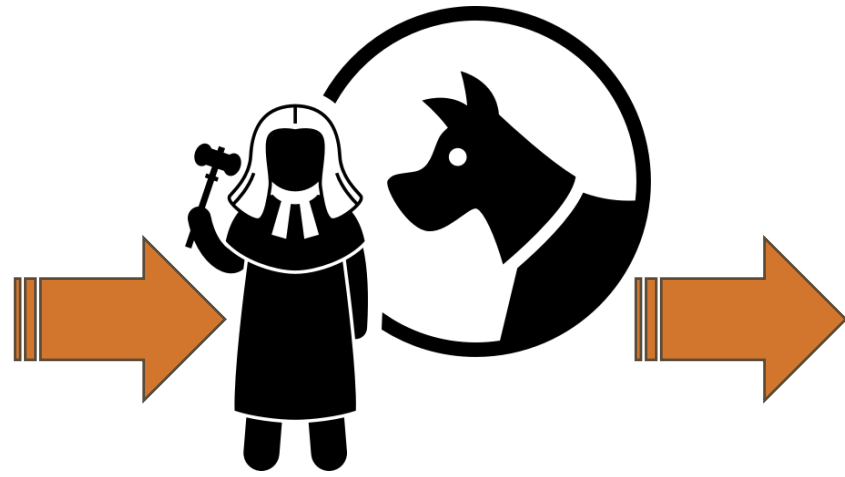
BAD NEWZ CIVIL CASE

- August 2007: Now The Gov Owns The Dogs
 - What to do with 53 ex-fighting dogs?
 - Status quo default → euthanasia
 - But! With fewer resource constraints... ..another way?
 - Thus, *US v. Approximately 53 Pit Bull Dogs*
- October 2007: Rebecca Huss Appointed Guardian/Special Master
 - Identify canine behavior experts
 - Evaluate each dog as an individual
 - Set interim care per dog
 - Recommend final disposition to Court
- Impact
 - Sea change for fighting animals
 - Or at least fighting *dogs*





July 1987



December 2008

FOUGHT ANIMALS: STATUS SHIFT?

- *In re Ortega-Lopez*
 - Are fought animals legal victims?
 - If so, are they particularly vulnerable victims?
- *US v. Gaines*
 - Are fought animals victims for purposes of federal sentencing math?



WHAT COMES NEXT?

- Expansion of Fighting Animal Rehab
 - Via sentencing / restitution?
 - For fought roosters
- Attorney Representation for Fought Animals
 - CAAPs
 - Desmond's Law & Franky's Law
 - ...more to come



**NEW LEGISLATIVE
TREND:**

**ANIMAL FIGHTING
PARAPHERNALIA**



What is animal fighting paraphernalia?



644:8-a Exhibitions of Fighting Animals.

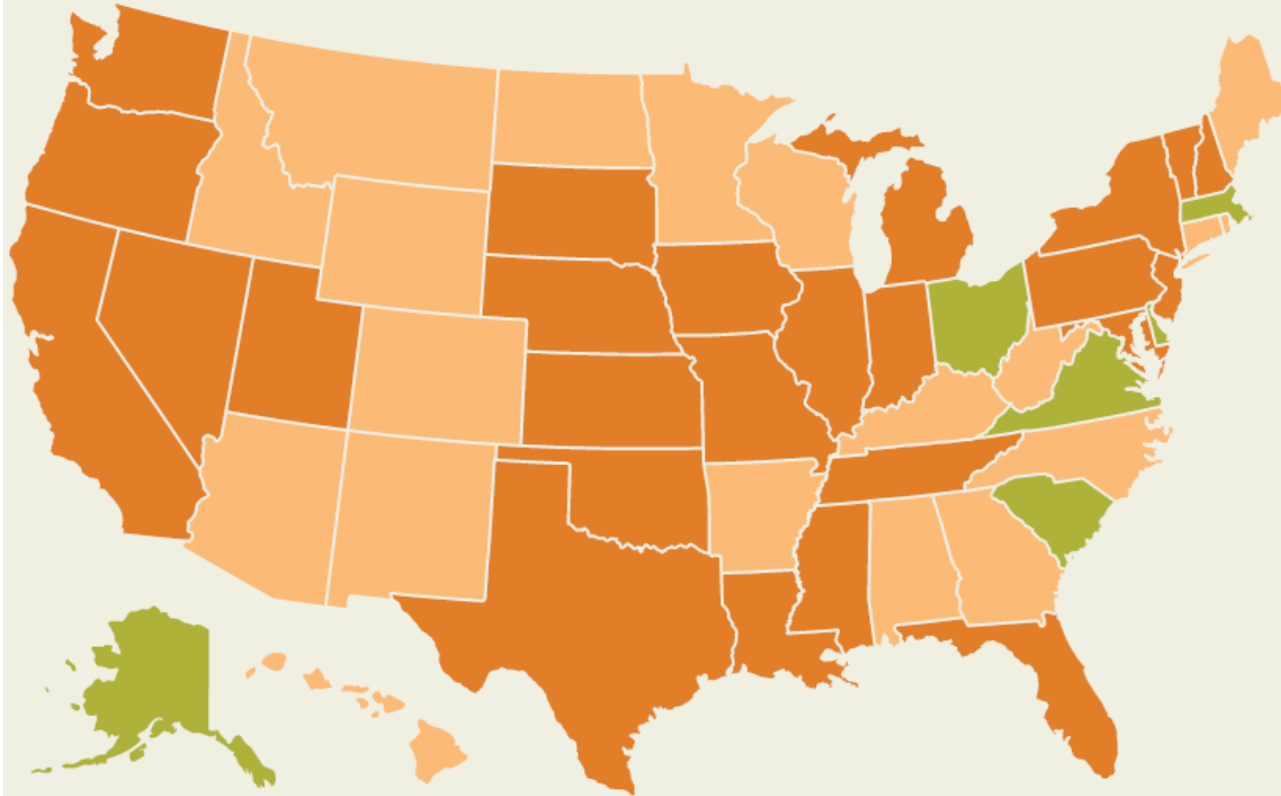
III. (a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.

(b) For purposes of this section, “animal fighting paraphernalia” means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.

(c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intend to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.



ANIMAL FIGHTING PARAPHERNALIA



FIGHTING PARAPHERNALIA AND POSSESSION LAWS

- CRIMINALIZES POSSESSION OF FIGHTING PARAPHERNALIA
- HAS LAW REGARDING SEIZURE AND/OR FORFEITURE OF FIGHTING PARAPHERNALIA
- DOES NOT HAVE LAWS REGARDING PARAPHERNALIA

New laws in 2019:

New Hampshire
New Jersey
Tennessee
Washington



HOG-DOG TRIALS

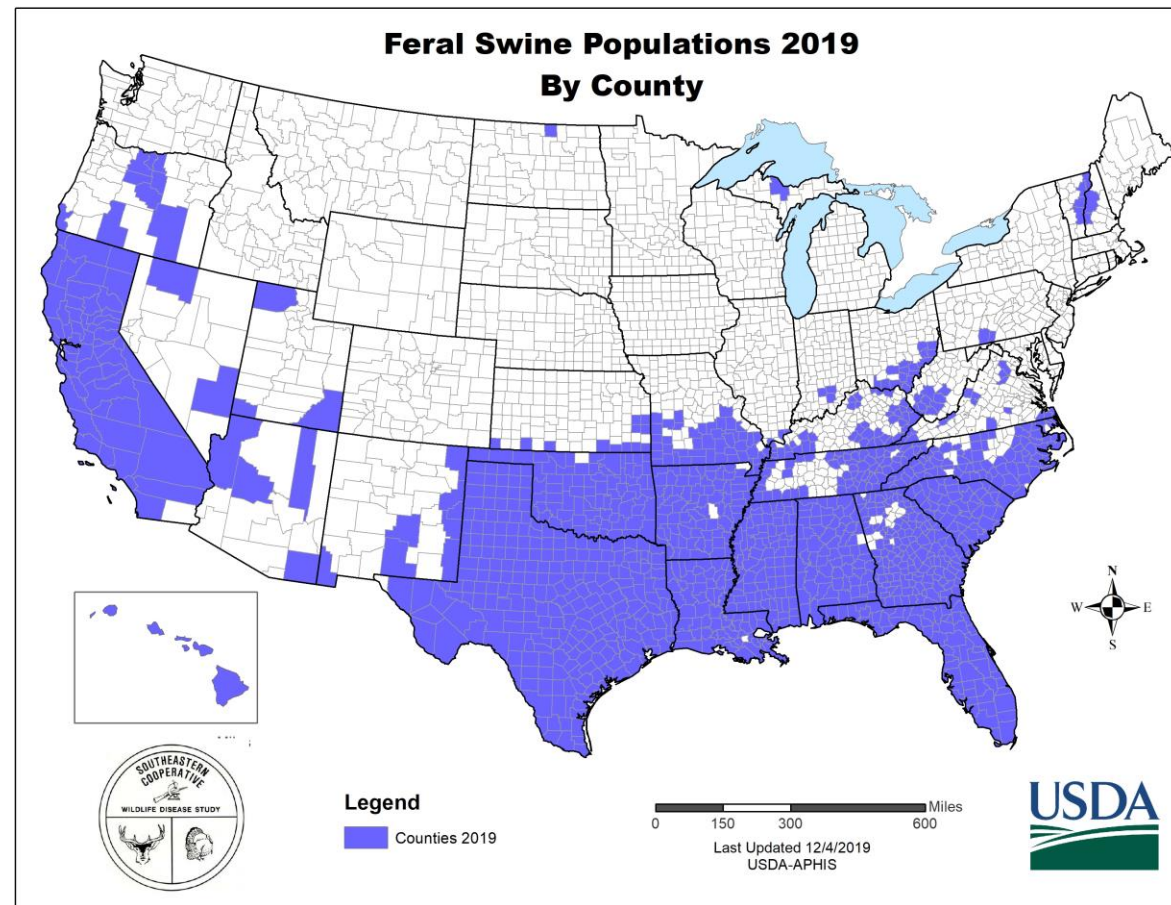
A.K.A. Hog Dog Rodeos,
Baying Trials, Catch Trials,
or Hog Baiting





- 75-250 pounds
- 3-5 feet long
- Run 30 mph
- Over 6 million in US
- 2.6 million in Texas

Hogs



Catching vs. Baying

Catching: goal is for the dog to “catch” the hog by locking their jaws on the hog’s neck

Baying: goal is for the dog to “bay” the hog by barking at them, keeping them confined or boxed in to one location



Even “baying” has foreseeable violent contact

Kevlar vests, neck cuffs
Breaking sticks
Dubbing tusks



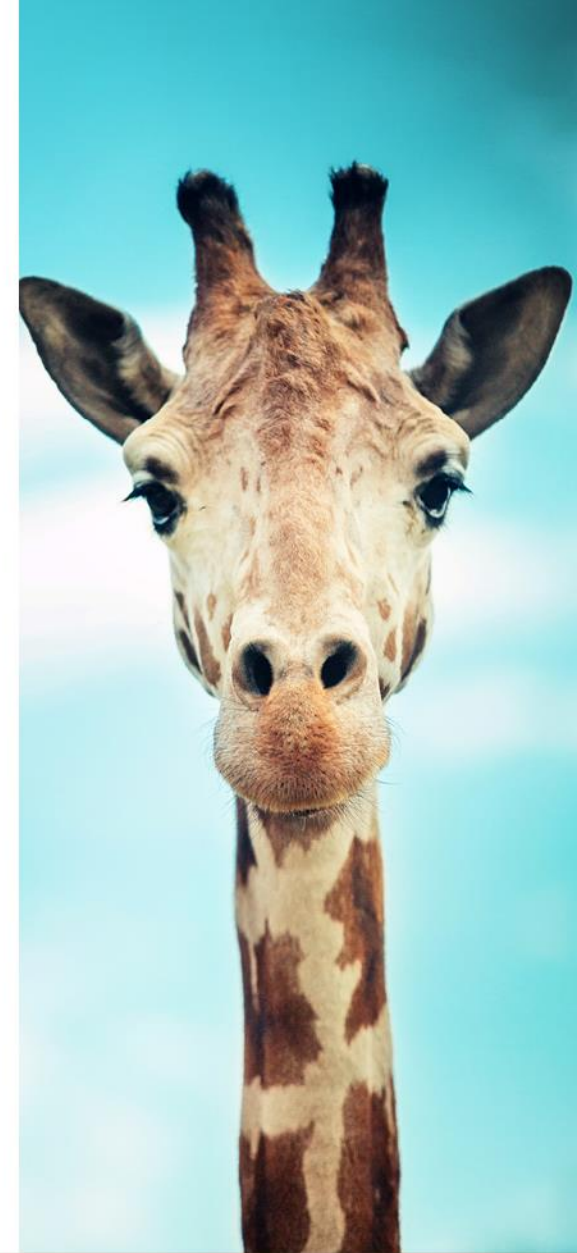
Unnecessary Roughness Errors

Nipping Set Hog
Pressuring Set Hog to Break

Disqualifying Errors

Initiating Two (2) Holding Counts of
3 Seconds or More in Single Run
Handler touching Dog during Bay
Dog not secure on Leash before exiting Arena
Four (4) Second Holding Count

Penalties for contact
written into the rules





AUGUST 11TH

Events in order GATES OPEN AT 4PM

Puppy-\$20ea

One Dog-\$30

Two Dog-\$60

Old and young-\$50

SIGN UP 5:30PM

BAY STARTS AT 6:30PM

Payout

CONCESSION ON SITE



DELUXE CUT KIT FOR THE FIELD

\$100.00

CASE QUANTITY
Standard case - 1 +

SOLD OUT

Tex. Atty. Gen. Op. LO-94-071 (Tex.A.G.), 1994 WL 529835

Office of the Attorney General

State of Texas

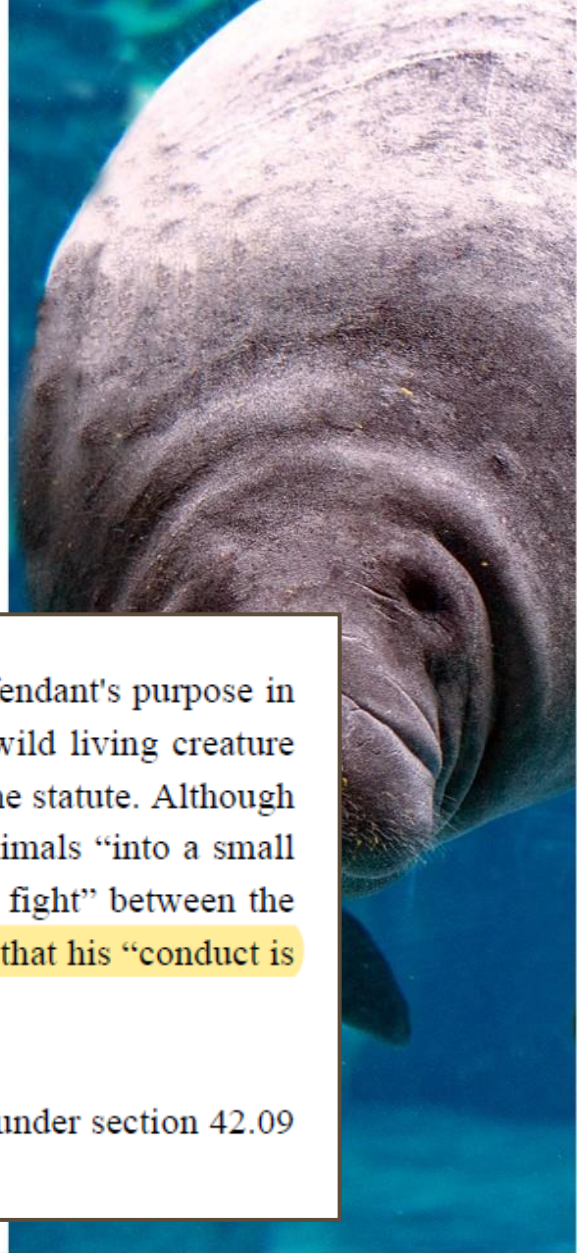
Letter Opinion No. 94-071

September 21, 1994

We will first address Senator Whitmire's question. Based on the facts described, we believe that the “staging” of the activities in question constitutes an offense under section 42.09(a)(6). “Staging” certainly indicates the presence of the requisite “knowledge” or “intent” to “cause” the fights in question. See Penal Code § 6.03 (Definitions of Culpable Mental States).¹ “[F]ights between penned hogs and dogs” would certainly appear to involve “one animal [] fight[ing] with another.” Subsections (a)(1) and (a)(4) of the section—making it a crime, respectively, to “torture [] . . . an animal” or “confine[] an animal in a cruel manner”—may apply.

Senator Sims's request also sets out the elements of an offense under section 42.09(a)(6). Even if the defendant's purpose in releasing the “dog or group of dogs . . . into a small enclosure with a domesticated living creature or wild living creature previously captured” were that of “‘training’ the dog or dogs,” the facts described state an offense under the statute. Although we cannot be certain that a judge or jury would not accept a defendant's assertion that, in placing the animals “into a small enclosure” from which there is no immediate possibility of retreat, he did not thereby intend to “cause a fight” between the creatures, we believe it is obvious that such conduct establishes on its face an awareness by the defendant that his “conduct is reasonably certain to cause the result,” i.e., a “fight” between the dog or dogs and the other animal.³

*2 Thus, we can state with confidence that the scenario described by Senator Sims describes an offense under section 42.09 of the Penal Code.



§ 102.19. Hog and canine fighting prohibited; penalties

A. It shall be unlawful for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

- (1) Finance, commercially advertise, sell admission tickets, or employ persons.
- (2) Own, manage, or operate any facility or property.
- (3) Supply, breed, train, or keep canines or hogs.
- (4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials", as defined in R.S. 49:170.10.



COCKFIGHTING IN THE TERRITORIES



Pre-2019

(3) Special rule for certain State ¹

With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.



2018 PACE Act

Congress votes to ban cockfighting in Puerto Rico, other US territories

By **DANICA COTO**
OF THE ASSOCIATED PRESS | DEC 14, 2018



NATIONAL

Puerto Ricans Angry Over Impending Ban On Cockfighting

December 14, 2018 · 5:01 AM ET
Heard on Morning Edition



3-Minute Listen

PLAYLIST



2019

The New York Times

Culture or Cruelty? Puerto Rico Says No to Federal Cockfighting Ban

The governor signed legislation intended to sidestep a ban approved by Congress. The law is likely to end up in court.



A cockfighting ban in Puerto Rico has drawn praise from animal rights activists and anger from some who consider the practice part of the island's culture. Erika P. Rodriguez for The New York Times



Angel Manuel Ortiz-Diaz v. United States

Timeline of case:

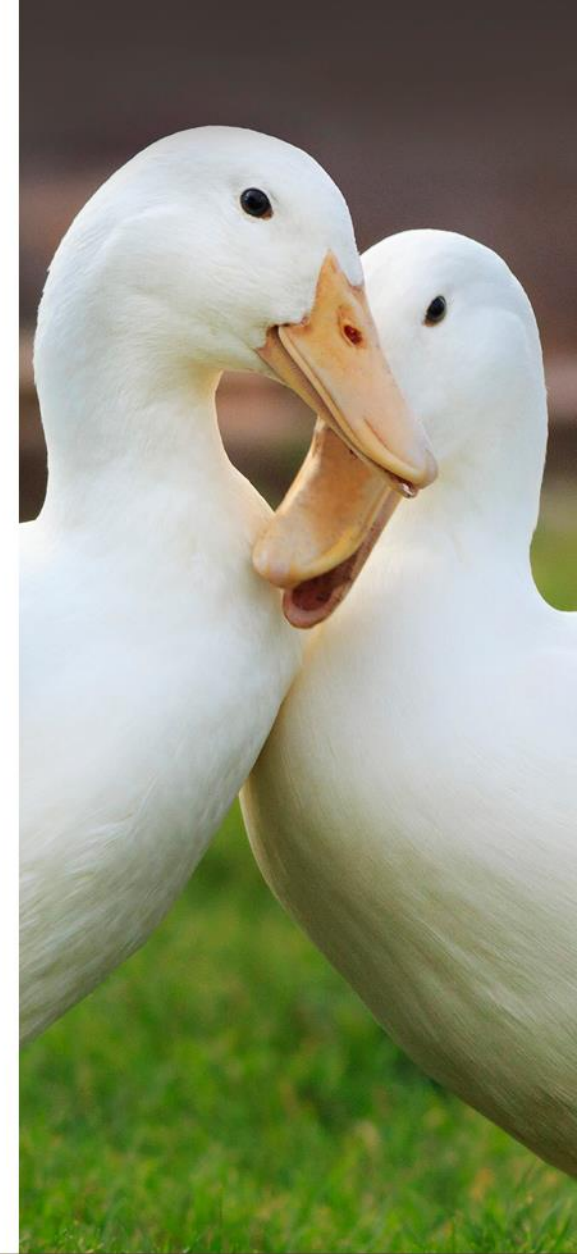
- May 2019: Plaintiffs sue alleging PACE Act violates various constitutional provisions (Commerce Clause, Territories Clause, Amendments 1, 5, 10, 14)
- October 2019: US District Court granted defendants' counter motion to dismiss
- June 2020: Plaintiffs appeal to First Circuit Court of Appeals, narrow arguments to Commerce Clause and 1st Amendment
- January 2021: First Circuit affirms
- June 2021: Plaintiffs appeal to US Supreme Court, citing Commerce Clause



Angel Manuel Ortiz-Diaz v. United States

Commerce Clause

1. Economic or commercial activity
2. Statute includes language limiting it to activities affecting interstate commerce
3. Congress makes findings about the activity affecting interstate commerce
4. Link between activity and interstate commerce isn't too attenuated





Questions?

