

BEFORE THE DISTRICT ATTORNEY OF YORK COUNTY

IN RE PRIVATE CRIMINAL COMPLAINT OF ANIMAL PARTISAN

Private criminal complaint submitted pursuant to Pa. R. Crim. P. 504 requesting
criminal charges against Dillsburg Halal Meat, LLC

October 19, 2022

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I. INTRODUCTION

On behalf of Animal Partisan, I submit this correspondence in support of a citizen's criminal complaint filed pursuant to Pa. R. Crim. P. 504 alleging violation of the Commonwealth's animal cruelty law, 18 Pa.C.S. § 5533(a), by Dillsburg Halal Meat, LLC ("DHM")¹ and its employee. Upon filing, the prosecutor's office is required to investigate a private criminal complaint² and approve or disapprove it without unreasonable delay.³ We appreciate your attention to this matter.

DHM is a federally inspected slaughterhouse located at 855 Mount Zion Road, Dillsburg, Pennsylvania 17019.⁴ The business is owned by Saber Sassi and has been in operation since October 2021.⁵

Animal Partisan is a legal advocacy organization whose mission is to end the suffering of animals in slaughterhouses, farms, and laboratories by discovering, exposing, and challenging unlawful conduct in all its forms.⁶

II. FACTS GIVING RISE TO COMPLAINT

On March 17, 2022, a United States Department of Agriculture ("USDA") inspector monitoring the slaughter of animals at DHM witnessed an incident of abuse they categorized as an "egregious humane handling incident,"⁷ a categorization of such severity that it is used in less than 0.5% of all inspections.⁸ The incident was thoroughly documented on the USDA inspection report, included as Appendix A. In relevant part, the report states:

A lamb was hoisted, and the ritual cut was performed. After only a few seconds and while the lamb was still paddling and breathing, a separate employee from the one who performed the ritual cut made eye contact with the Food Inspector (FI), smiled, and proceeded to kick the lamb very hard in the nose. The lamb flinched in reaction to the impact. The FI informed the employee that this behavior was unacceptable, at which point the establishment employee began laughing.⁹

¹ Unless specified otherwise, the term "DHM" in this complaint collectively refers to the corporate entity, its owner, and its employee.

² *In re Private Complaint of Adams*, 764 A.2d 577, 580 (Pa. Super. Ct. 2000).

³ Pa. R. Crim. P. 506.

⁴ Dillsburg Halal Meat, LLC, Open Corporates, https://opencorporates.com/companies/us_pa/7168724 (last visited Oct. 6, 2022).

⁵ L. Tzivekas, *USDA: Employee kicked lamb in nose at Dillsburg Halal Meat, leading to suspension*, YORK DAILY RECORD, <https://www.ydr.com/story/news/2022/04/05/dillsburg-halal-meats-suspended-after-usda-observes-mishandling-of-lamb/65348320007/> (last visited Oct. 10, 2022).

⁶ Home, Animal Partisan, <https://www.animalpartisan.org/> (last visited Oct. 6, 2022).

⁷ Appendix A: Notice of Suspension – Dillsburg Halal Meat, United States Department of Agriculture, p.1 (Mar. 17, 2022).

⁸ See *Humane Handling Data*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/science-data/data-sets-visualizations/humane-handling-data> (last visited Oct. 10, 2022).

⁹ *Ibid.*

Immediately following the incident, the USDA inspector notified two other federal officials and subsequently ordered the plant to cease slaughter operations.¹⁰ On March 22, 2022, following discussions between the USDA and DHM, the USDA postponed the suspension pending “corrective actions” by DHM.¹¹ USDA’s decision to postpone the suspension (i.e. place the suspension in “abeyance”) is a very common response from the agency and was based on remedial measures proposed by Sassi, DHM’s owner.¹² Sassi informed the USDA that the employee’s actions occurred as he “was hasty in his work because he was rushing to get done.”¹³ Sassi committed to suspend the employee for one week, comply with a monitored probation period, and provide retraining in slaughter methods.¹⁴

III. LEGAL ANALYSIS

A. DHM’s abuse of a helpless lamb during slaughter violates Pennsylvania’s animal cruelty law.

Pennsylvania’s animal cruelty law prohibits a wide range of conduct, including kicking a vulnerable lamb in the face while he/she dangles upside down with a severed throat. Accordingly, DHM should be charged with animal cruelty.

Under the animal cruelty law, 18 Pa.C.S. § 5533(a), “[a] person commits an offense if the person intentionally, knowingly or recklessly illtreats, overloads, beats, abandons or abuses an animal.”¹⁵ The law defines a “domestic animal” as “[a] dog, cat, equine animal, bovine animal, *sheep*, goat or porcine animal.”¹⁶

By forcefully kicking a helpless lamb in the nose during slaughter, DHM “illtreated” an “animal” and violated the cruelty law. Pennsylvania’s rules of statutory construction state that “[w]ords and phrases shall be construed according to rules of grammar and according to their common and approved usage.”¹⁷ Thus, the term “illtreat” means “to treat cruelly or improperly,”¹⁸ a definition which certainly encompasses kicking an animal in the face during that animal’s final moments. Pennsylvania courts have found the cruelty law violated when an individual strikes an animal.¹⁹

Moreover, the USDA report indicates that the act was intentional. The USDA inspector noted that DHM made eye contact with the inspector and smiled before kicking the animal.²⁰ In

¹⁰ *Ibid.*

¹¹ Appendix B: Appendix A: Notice of Suspension Held in Abeyance – Dillsburg Halal Meat, United States Department of Agriculture, p.1 (March 22, 2022).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ 18 Pa.C.S. § 5533(a).

¹⁶ 18 Pa.C.S. § 5531 (emphasis added).

¹⁷ 1 Pa.C.S. § 1903(a).

¹⁸ *Ill-treat*, Merriam-Webster Dictionary Online (2022).

¹⁹ See *Commonwealth v. Sadosky*, No. CC 201300526 at *6 (Ct. of Common Pleas 2013) (Defendant convicted of cruelty in part for striking a kitten with force).

²⁰ See *Humane Handling Data*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/science-data/data-sets-visualizations/humane-handling-data> (last visited Oct. 10, 2022).

response to the inspector's admonitions, DHM simply laughed at the act of abuse.²¹ Although such abuse is unwarranted in any circumstance, the employee's behavior, both before and after, suggests that the abuse was done for personal amusement, a fact that makes this incident particularly abhorrent.

DMH's cruel act "caus[ed] bodily injury to the animal or plac[ed] the animal at imminent risk of serious bodily injury," thus rising to the level of a misdemeanor offense.²² We respectfully request that your office charge DHM with misdemeanor animal cruelty.

B. The "normal agriculture operation" exemption does not apply as kicking helpless animals in the face during slaughter is not an accepted practice.

Pennsylvania law contains an exemption to cruelty charges for "normal agricultural operations, however, the exemption is inapplicable here. Specifically, 18 Pa.C.S. § 5560 states that:

Sections 5532 (relating to neglect of animal), 5533 (relating to cruelty to animal), 5534 (relating to aggravated cruelty to animal), 5536 (relating to tethering of unattended dog) and 5543 (relating to animal fighting) shall not apply to activity undertaken in a normal agricultural operation.²³

The law further defines a "normal agricultural operation" as:

Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.²⁴

The precise definition of "normal agricultural operation" has been addressed twice by the Superior Court. In *Commonwealth v. Barnes*, the court found that normal means "conforming with or constituting an accepted standard, model, or pattern; natural; standard; regular."²⁵ More recently in the case of *In re Private Crim. Complaint Filed by Animal Outlook*, a case involving the abuse of cows at an industrial dairy, the court held that "[T]he exception only applies when the conduct is an accepted standard within the agricultural industry and the defendant acted in the course of business within that industry."²⁶ The court in *Animal Outlook* further stated that:

[T]o determine whether there is adequate evidence to disprove a normal-agricultural-operations defense, we must ascertain whether the certified record contains sufficient evidence that the activities at issue fell outside the bounds of what is considered standard and accepted within the dairy farming industry. Certainly, the

²¹ *Ibid.*

²² 18 Pa.C.S. § 5533(b)(2) (if no bodily injury or risk of bodily injury occurred, the offense is a summary offense).

²³ 18 Pa.C.S. § 5560.

²⁴ 18 Pa.C.S. § 5531.

²⁵ *Commonwealth v. Barnes*, 427 Pa. Super. 326, 629 A.2d 123, 129 (Pa. Super. 1993).

²⁶ *In re Private Crim. Complaint Filed by Animal Outlook*, 271 A.3d 516, 523 (Pa. Super. 2022).

recommendations and guidelines of industry groups are pertinent to this inquiry to the extent that they are widely accepted or regular.²⁷

Thus, the question in the present matter is whether kicking a lamb in the face while they are strung upside down and bleeding from a severed throat is a “standard and accepted” practice in the business of sheep slaughter or halal slaughter. The answer is not in dispute—every organization, including the federal government, veterinarians, the sheep industry, and halal slaughter authorities, condemn the abuse of animals during slaughter:

- The **USDA** found that the act violated federal law, specifically 9 CFR § 313.2 (part of the Federal Meat Inspection Act and Humane Methods of Slaughter Act), which requires that “animals are to be handled in a manner that minimizes excitement, discomfort, pain, or injury.”²⁸
- The **American Sheep Industry Association**, citing Temple Grandin, states that “[a]nimal welfare is more than just an ethical decision; it is imperative to successful business,” and that workers should handle sheep “calmly and maintain high standards of animal welfare” which include “calm, low-stress handling.”²⁹
- The **American Veterinary Medical Association’s Guidelines for the Humane Slaughter of Animals** state that “[a]cts of abuse that should never be tolerated include but are not limited to. . . 2) *beating animals*; 3) *poking sensitive areas such as the animal’s eyes, nose, udder, or anus . . .*”³⁰
- The **Islamic Food and Nutrition Council of America** states that “humane handling [is] to be practiced throughout the process” and that the animal should “not [be] frightened at slaughter.”³¹
- The **Department of Halal Certification for the European Union** states that “animals should be killed in a comfortable way” and that “unnecessary suffering to them must be avoided.”³²

²⁷ *Id.* at 528.

²⁸ Appendix A: Notice of Suspension – Dillsburg Halal Meat, United States Department of Agriculture, p.1 (Mar. 17, 2022).

²⁹ *Animal Care and Welfare*, AMERICAN SHEEP INDUSTRY ASSOCIATION, <https://www.sheepusa.org/researcheducation-animalcarewelfare> (last visited Oct. 7, 2022) (quoting Temple Grandin)

³⁰ *AVMA Guidelines for the Humane Slaughter of Animals*, AMERICAN VETERINARY MEDICAL ASSOCIATION, <https://www.avma.org/sites/default/files/resources/Humane-Slaughter-Guidelines.pdf>, p.12 (last visited Oct. 7, 2022).

³¹ M. Chaudry, *Animal Care & Handling During Halal Slaughter*, ISLAMIC FOOD AND NUTRITION COUNCIL OF AMERICA, <https://www.meatinstitute.org/index.php?ht=a/GetDocumentAction/i/11082> (last visited Oct. 10, 2022).

³² *Islamic Method of Slaughtering*, DEPARTMENT OF HALAL CERTIFICATION FOR THE EUROPEAN UNION, <https://halalcertification.ie/islamic-method-of-slaughtering/> (last visited Oct. 10, 2022).

In sum, not a single authority sanctions the type of abuse DHM inflicted upon the helpless lamb at slaughter. As such, the act is not an “accepted standard within the agricultural industry” and DHM cannot avail itself to the “normal agricultural operation” exemption.³³

C. DHM as a corporation should be criminally charged as the company’s owner recklessly tolerated a workplace culture where the overt abuse of animals became a source of amusement.

The USDA records evidence reveal that the incident is the result of systemic failures by DHM’s owner to ensure appropriate animal welfare measures. Accordingly, the corporation itself should be charged with animal cruelty.

Under Pennsylvania law, the term “person” includes “a corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.”³⁴ Moreover, “[a] corporation may be convicted of the commission of an offense if . . . the commission of the offense was authorized, requested, commanded, performed or recklessly tolerated by . . . a high managerial agent acting in behalf of the corporation within the scope of his office or employment.”³⁵

Here, DHM meets the elements to be charged as a corporation. As a threshold matter, DHM is a limited liability corporation registered with the Pennsylvania Secretary of State under Entity Number 7168724 since November 23, 2020.³⁶ Second, the USDA reports indicate that the employee’s conduct was recklessly allowed by the corporation, through its owner, Sassi. This is evidenced by the following:

- The employee showed a blatant disregard for federal law regarding the humane handling of animals at slaughter as evidenced by smiling before kicking the lamb in the face and then laughing when reprimanded by the USDA inspector.³⁷ This level of brazen conduct in the face of a federal inspector speaks directly to the lack of importance placed on humane handling by the corporation itself.
- The above point is further emphasized by the fact that the USDA record indicates that not only was the act committed in front of the inspector, but also done in the immediate presence of a co-worker who apparently did and said nothing.³⁸ This further suggests that the corporation has fostered an atmosphere where abuse is tolerated.
- The corrective action plan submitted by DHM to the USDA suggests that the corporation enacted inadequate training in humane handling. The plan indicates that the worker will undergo training that “will have detailed plan on work ethics, including how to properly

³³ *Animal Outlook*, 271 A.3d at 523.

³⁴ 1 Pa.C.S. § 1991.

³⁵ 18 Pa.C.S. § 307.

³⁶ *Dillsburg Halal Meat*, PENNSYLVANIA SECRETARY OF STATE, <https://www.corporations.pa.gov/search/corpsearch> (last visited Oct. 7, 2022).

³⁷ Appendix A: Notice of Suspension – Dillsburg Halal Meat, United States Department of Agriculture, p.1 (Mar. 17, 2022).

³⁸ *Ibid.*

conduct humane killing, and a step-by-step plan on how to perform his duties.”³⁹ This suggests that the corporation allowed an employee, who was either improperly trained or perhaps not trained at all, to slaughter animals.

- The corrective action plan also suggests inadequate oversight. The plan states that “Mr. Saber Sassi will be overseeing the involved employee, and the area which in where the incident occurred each slaughter day (e.g., 100 percent).”⁴⁰ This suggests that the corporation was not providing proper oversight for the slaughter of animals and only agreed to provide sufficient oversight when threatened with suspension by federal officials.

The facts presented in the USDA records indicate that the corporation, acting through its “high managerial agent,”⁴¹ Sassi, failed to properly train employees on humane handling, failed to monitor the slaughter of animals at the facility, and allowed a workplace culture to exist where workers viewed the overt abuse of animals in plain sight of USDA inspectors and co-workers as not only acceptable, but amusing. Thus, Sassi “recklessly tolerated” criminal conduct and as a result, the corporation itself should be criminally charged.

D. The Commonwealth is not prevented from pursuing criminal charges based on DHM’s status as a federally regulated slaughterhouse.

Any actions taken or not taken by the USDA have no bearing on the Commonwealth’s ability to pursue criminal charges for animal cruelty. DHM is not immune from prosecution for animal cruelty simply because it engages in a federally regulated business.

This issue has been squarely addressed by the Supreme Court of the United States. In *National Meat Association v. Harris*, the Court considered an argument that the Federal Meat Inspection Act (“FMIA”, which incorporates the Humane Methods of Slaughter Act) preempted a California law regulating the handling of “downed” animals at slaughter.⁴² The Court concluded that states may still enforce animal cruelty laws at federal slaughter establishments:

[B]ecause the FMIA's express preemption provision prevents States from imposing only “addition[al]” or “different” requirements, [] States may exact civil or *criminal penalties for animal cruelty* or other conduct that also violates the FMIA . . . Although the FMIA preempts much state law involving slaughterhouses, it thus leaves some room for the States to regulate.⁴³

Thus, the mere fact that DHM’s criminal act occurred during slaughter at a federally inspected slaughterhouse and was witnessed by the USDA does not preclude the Commonwealth from enforcing its own animal cruelty law.

³⁹ Appendix B: Appendix A: Notice of Suspension Held in Abeyance – Dillsburg Halal Meat, United States Department of Agriculture, p.1 (March 22, 2022).

⁴⁰ *Ibid.*

⁴¹ 18 Pa.C.S. § 307.

⁴² *Nat'l Meat Ass'n v. Harris*, 565 U.S. 452, n.10 (2012).

⁴³ *Ibid.* (emphasis added).

Moreover, the fact that the USDA allowed DHM to continue operations based on a corrective action plan does not negate the criminal conduct that occurred. The Superior Court of Pennsylvania addressed an identical issue in *Animal Outlook*, criticizing the trial court for relying on training and human resource changes at an industrial dairy engaged in cruelty to decline criminal charges. There, the Superior Court stated that:

[T]he trial court, as did the PSP, made a point of noting that Martin Farms had voluntarily changed some of its practices. The fact that the farm stopped committing or allowing the arguably-criminal acts does not negate culpability for any past crimes perpetrated upon the animals. We are not considering enforcement of an administrative regulatory scheme seeking future compliance with better farming practices. We instead face proposed criminal actions vindicating laws that our legislature has deemed to be crimes against the people of this commonwealth. That remedial measures were taken here does not affect liability for prior criminal acts any more than the fact that a defendant stopped selling drugs would absolve him from prosecution for past drugs sold.⁴⁴

The Commonwealth is not barred from pursuing animal cruelty laws by federal law or any mandate of the USDA. In addition, the existence of a corrective action plan does not negate the criminal act that occurred and does not absolve DHM of accountability for animal cruelty.

III. CONCLUSION

In the final, agonizing moments of a lamb's life, as he/she dangled helplessly, bleeding from the throat, DHM openly mocked the measures intended to protect animals at slaughter and forcefully kicked the lamb in the face. When confronted, DHM laughed as if amused by any concern for the lamb's welfare. This incident occurred in the mosaic of a slaughterhouse where workers are poorly trained, unsupervised, and seemingly indifferent to acts of cruelty. Moreover, the corrective action plan agreed to between DHM and the USDA is insufficient to negate criminal charges, as held earlier this year by the Superior Court.

We respectfully request that criminal charges are filed against DHM as a corporation and the employee for animal cruelty. If you have any questions or require further information, please contact me at wlowrey@animalpartisan.org or (804) 307-4102.



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⁴⁴ *Animal Outlook*, 271 A.3d at 526.