

BEFORE THE MAGISTRATE OF MAGISTERIAL DISTRICT 26—REGION 4

IN RE CRIMINAL COMPLAINT OF ANIMAL PARTISAN

Private criminal complaint submitted pursuant to Va. Code Ann. §19.2-71(A) requesting
criminal charges against **Gentle Harvest Custom Processing**

November 14, 2022

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I. INTRODUCTION

On behalf of Animal Partisan, I submit this correspondence in support of a criminal complaint alleging violation of Virginia’s animal cruelty law, Va. Code Ann. §3.2-6570, by Gentle Harvest Custom Processing (“GHCP”) as a corporation¹, its plant manager, and its employee. Upon request of a party “other than a law-enforcement officer” and without consent of the Commonwealth Attorney, a magistrate may order the arrest of an individual for a misdemeanor charge such as that requested here.²

GHCP is a federally inspected slaughterhouse located at 468 Whitehall Road, Winchester, Virginia 22603.³ The slaughterhouse slaughters cattle, pigs, and sheep.⁴ The business is owned by Sandy Lerner⁵ and has been in operation since 2018.⁶

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.⁷ Animal Partisan is headquartered in Glen Allen, Virginia.

II. FACTS GIVING RISE TO COMPLAINT

On October 7, 2022, a United States Department of Agriculture (“USDA”) inspector monitoring the slaughter of animals at GHCP witnessed an incident of abuse to a pig that they classified as an “egregious humane handling incident,”⁸ a categorization of such severity that it is used in less than 0.5% of all USDA inspections.⁹ The incident was thoroughly documented on the USDA’s Notice of Suspension report, included here as Appendix A.

¹ Unless otherwise specified, “GHCP” as used throughout this complaint refers collectively to the corporation, the plant manager, and the employee.

² Va. Code Ann. §19.2-71(A).

³ *Gentle Harvest Custom Processing*, UNITED STATES DEPARTMENT OF AGRICULTURE, <https://www.fsis.usda.gov/inspection/fsis-inspected-establishments/gentle-harvest-0> (last visited Oct. 28, 2022).

⁴ *Gentle Harvest Custom Processing*, FACEBOOK, <https://www.facebook.com/GHCustomProcessing/> (last visited Oct. 28, 2022).

⁵K. Graham, *London Laurels set to honor Cisco co-founder Sandy Lerner at Friday’s gala*, LOUDON TIMES-MIRROR, https://www.loudontimes.com/news/loudoun-laurels-set-to-honor-cisco-co-founder-sandy-lerner-at-fridays-gala/article_7c152236-3f47-11ed-ab06-8754b98ff1fe.html (last visited Nov. 10, 2022) (“Her vision continues as she now owns Gentle Harvest, a humane slaughterhouse in northern Winchester.”); W. Pipkin, *Cisco co-founder Sandy Lerner’s next big idea: Refining road food*, THE WASHINGTON POST, https://www.washingtonpost.com/lifestyle/food/cisco-co-founder-sandy-lerners-next-big-idea-redefining-road-food/2016/10/28/e8772d48-9b01-11e6-9980-50913d68each_story.html (last visited Nov. 10, 2022) (“Lerner’s experience at Ayrshire taught her that she’d need to buy a slaughterhouse to make the economics of this new fast-food model work. So, when one of the half-dozen U.S. Department of Agriculture-certified facilities in Northern Virginia became available this year in Winchester, she did just that.”).

⁶ *Gentle Harvest Custom Processing*, YELP, <https://www.yelp.com/biz/gentle-harvest-custom-processing-winchester-2> (last visited Oct. 28, 2022).

⁷ *Home*, ANIMAL PARTISAN, <https://www.animalpartisan.org/> (last visited Oct. 28, 2022).

⁸ Appendix A: Notice of Suspension – Gentle Harvest Custom Processing, UNITED STATES DEPARTMENT OF AGRICULTURE, p.2 (Oct. 7, 2022).

⁹ 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).

As detailed in the report,¹⁰ an employee attempted to stun a restrained¹¹ pig—apparently a Vietnamese pot-bellied or another thick-skulled breed¹² known to cause difficulty during slaughter with firearms¹³—by shooting the animal with a .22 magnum rifle. Although the pig was restrained and at close range, the employee failed to properly stun her and she remained standing and vocalizing in distress after being shot in the head.

The employee again fired the rifle at the pig but once more, she remained standing after having been shot a second time in the head at close range. The employee summoned the plant manager who retrieved a .410 shotgun and handed it to the employee to fire a third shot at the pig’s head. The employee shot the pig for the third time, this time using the shotgun provided by the plant manager. As before, the pig remained standing and once more vocalized in distress, now having been shot three times in the head, twice with a rifle and once with a shotgun.

The employee then fired a fourth shot at the pig’s head, again using the shotgun. Finally, after the fourth shot, the pig was rendered unconscious.

Upon witnessing this abuse, the USDA inspector suspended operations at GHCP.¹⁴ The inspector determined that the conduct violated federal law, specifically 9 CFR § 313.16(a)(1) which states part:

[F]irearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

On October 11, 2022, the USDA withdrew the suspension based on GHCP’s submission of a proposed corrective action plan that required the plant to refuse to slaughter certain breeds of pigs that may have a thicker skull, ensure firearms were properly cleaned and maintained, and verify the effectiveness of stuns.¹⁵

¹⁰ Appendix A.

¹¹ See example of a “knock box” at *E-Z Knocking Pen*, ULTRASOURCE, <https://www.ultrasourceusa.com/kill-floor-ez-knocking-pen.html> (last visited Oct. 31, 2022).

¹² Appendix B: Notice of Suspension Held in Abeyance, United States Department of Agriculture (Oct. 11, 2022) (see p.3, Item #1) (The USDA records suggest, but do not explicitly state, that the pig in question was a Vietnamese pot-bellied pig in which case the arguments here apply).

¹³ Pigs, Humane Slaughter Association, <https://www.hsa.org.uk/humane-killing-of-livestock-using-firearms-positioning/pigs-2> (last visited Nov. 9, 2022) (“Older pigs and exotic breeds, such as the Vietnamese Pot Bellied Pig, often have foreheads of thick bone and this can cause problems when using free-bullet humane killers, especially older .22 or .310 models. The bullet may become lodged in the sinuses and fail to penetrate the brain.”)

¹⁴ Appendix A.

¹⁵ Appendix B.

III. LEGAL ANALYSIS

A. **Contrary to common misperception, states are not preempted from pursuing state animal cruelty charges simply because a slaughterhouse is federally regulated and inspected by USDA.**

The fact that the USDA inspects GHCP, along with any actions the agency may or may not have taken, has no bearing on the Commonwealth's ability to pursue criminal charges for animal cruelty. GHCP is not immune from prosecution for state animal cruelty charges simply because it engages in a federally regulated business and any argument to the contrary is squarely refuted by both United States Supreme Court precedent and statements from the USDA.

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", the exact same law the USDA was enforcing at GHCP) preempted a California law regulating the handling of "downed" animals at slaughter.¹⁶ The Court concluded that states may still enforce animal cruelty laws at federal slaughter establishments, stating:

[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.¹⁷

Thus, the mere fact that GHCP's act occurred during slaughter at a federally inspected slaughterhouse and was witnessed by the USDA inspector does not preclude the Commonwealth from enforcing its own animal cruelty law. As the Supreme Court stated, the Commonwealth may exact criminal penalties for GHCP's actions which separately violated federal law.

This same principle is echoed in USDA's own policy documents as well. In a directive issued by the USDA, the agency discusses the role of its employees in cases where poultry are handled inhumanely and states that "[t]he [District Veterinary Medical Specialist] . . . may notify State officials of findings that could be a violation of State and local animal welfare codes."¹⁸ Thus, the USDA itself acknowledges that state animal welfare laws may be enforced based on incidents occurring within a federally inspected slaughterhouse.

The USDA's involvement in this incident does not bar the Commonwealth from enforcing its own animal cruelty laws.¹⁹ To the contrary, the USDA's involvement provides reliable evidence that a crime against the Commonwealth occurred.

¹⁶ *Nat'l Meat Ass'n v. Harris*, 565 U.S. 452, n.10 (2012).

¹⁷ *Ibid.* (emphasis added).

¹⁸ FSIS Directive 6910.1, District Veterinary Medical Specialist (DVMS) – Work Methods, Food Safety and Inspection Service-United States Department of Agriculture, p.20, https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/6910.1.pdf (last visited Oct. 31, 2022).

¹⁹ Moreover, the fact that the USDA allowed GHCP to continue operations based on a corrective action plan does not negate the criminal conduct that occurred. *See In re Private Crim. Complaint Filed by Animal Outlook*, 271 A.3d 516 (Pa. Super. Ct. 2022) ("The fact that the farm stopped committing or allowing the arguably-criminal acts does

B. GHCP’s actions and failures—which caused a pig to be shot four times in the head at close range—violate Virginia’s animal cruelty law.

1. Virginia’s animal cruelty law

Virginia’s animal cruelty law prohibits a wide range of conduct and protects an equally wide range of species from abuse and neglect. GHCP’s cruel conduct falls squarely within the ambit of the cruelty law and should be prosecuted.

a. Covered species

Virginia’s Comprehensive Animal Care statutes define the term “animal” as “any nonhuman vertebrate species including fish except those fish captured and killed or disposed of in a reasonable and customary manner”²⁰ and undoubtedly apply to the pig at issue here.

b. Actus reus

Under the cruelty law, Va. Code Ann. § 3.2-6570, a “person”—which includes a corporation²¹—who does any of the following to “any animal” is subject to criminal punishment:

- ill-treats
- tortures
- cruelly kills²²

While the cruelty statute does not define these terms, definitions can be discerned through other sources, including court opinions and common meaning:

- A dictionary definition of the term “**ill-treats**” indicates the word means “to treat cruelly or improperly,”²³ or “to treat badly.”²⁴
- The term “**torture**”, as defined in other contexts by Virginia courts, means “producing unnecessary suffering.”²⁵

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.”)

²⁰ Va. Code Ann. § 3.2-6500.

²¹ Va. Code Ann. § 1-230 (“‘Person’ includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.”).

²² Va. Code Ann. § 3.2-6570(A)(i-ii).

²³ “Ill-treat”, MERRIAM-WEBSTER DICTIONARY ONLINE (2022).

²⁴ “Ill-treat”, CAMBRIDGE DICTIONARY ONLINE (2022).

²⁵ Va. Code Ann. § 3.2-6570(A)(vii) (punishing one who “carries or causes to be carried by any vehicle, vessel or otherwise any animal in a cruel, brutal, or inhumane manner, *so as to produce torture or unnecessary suffering.*”)

- The term “**cruelly kills**” should be read to mean kills in a way that “causes suffering or pain.”²⁶

c. *Mens rea*

The relevant subsection of the animal cruelty statute does not contain an explicit *mens rea* requirement, however, Virginia courts have interpreted it to require “knowledge.” For example, in *Pelloni v. Commonwealth*, a case involving the failure to provide veterinary care to a dog, the Virginia Court of Appeals held that a person violates the cruelty statute when they “created a situation . . . which [made] it not improbable that injury [would] be occasioned, and [he knew], or [was] charged with the knowledge of, the probable results of [his] acts.”²⁷

d. *Penalties*

Violation of the animal cruelty statute constitutes a class 1 misdemeanor²⁸ which carries a penalty of up to 12 months in jail and a fine of not more than \$2,500 or both.²⁹

As explained below, GHCP violated Virginia’s animal cruelty statute through a series of failures and omissions that caused the pig to be treated badly, produced unnecessary suffering, and caused suffering and pain during her killing

2. Applied to the present facts

The employee who fired the four shots, the corporation itself, and the plant manager each independently violated Virginia law and should be charged with animal cruelty. The sections below discuss each in detail.

a. *The employee*

Because he/she acted in manner inconsistent with widely accepted practices in the pork industry and requirements codified in law, the employee knew that his/her actions would cause the pig to be treated badly and suffer and should therefore be charged with animal cruelty.

First, if the pig was indeed a Vietnamese pot-bellied pig or another thick-skulled breed as USDA records suggest, the employee ignored important physical differences between this breed and

²⁶ *Mollenhauer v. Commonwealth*, 73 Va. App. 318, 335-336 (Va. Ct. App. 2021) (“In light of these definitions, the term ‘cruelly treated,’ as used in Code § 40.1-103, describes engaging in behavior toward another that causes physical or emotional pain or suffering in that other person. See Webster’s, supra, cruelty, dispose, pain, suffer; American Heritage, supra, cruelty; see also *State v. Malpher*, 2008 ME 32, 947 A.2d 484, 488 (Me. 2008) (holding that ‘cruelly treated’ in an animal welfare statute ‘refer[red] to treatment . . . caus[ing] suffering or pain’), cited with approval in *State v. Peck*, 2014 ME 74, 93 A.3d 256, 260 (Me. 2014).”

²⁷ *Pelloni v. Commonwealth*, 65 Va. App. 733 (744 (Va. Ct. App. 2016)); see also *Hillmon v. Commonwealth*, 2022 Va. App. LEXIS 118 at *15 (Va. Ct. App. 2022) (“In short, assuming that the offense required proof of knowledge, that requirement was satisfied by the trial court’s finding that the appellant was aware of her actions that constituted ill-treatment of her dog. Consequently, we affirm based on the trial court’s alternative findings, and we do not consider the appellant’s claim that the court erred by ruling on strict liability grounds.”).

²⁸ Va. Code Ann. § 3.2-6570(A)(i-ii).

²⁹ Va. Code Ann. § 18.2-11(a).

other pigs more commonly slaughtered for food. By ignoring these differences, the employee caused the pig to suffer by subjecting her to four firearm blasts to the head. As stated by the Humane Slaughter Association:

Older pigs and exotic breeds, such as the Vietnamese Pot Bellied Pig, often have foreheads of thick bone and this can cause problems when using free-bullet humane killers, especially older .22 or .310 models. The bullet may become lodged in the sinuses and fail to penetrate the brain.³⁰

The USDA recognized the employee's error as well, as evidenced by its acceptance of GHCP's corrective action plan that requires the facility to "refuse[] for slaughter Vietnamese Potbelly Pigs (VPPs), pigs with VPP characteristics, other hog breeds which are known to have thicker skulls, swine weighing > 475 lbs., and bulls > 10 years old."³¹

Second, the employee attempted to euthanize the pig by using a .410 shotgun which is widely known in the pork industry as ineffective in rendering *any mature pig*, much less a thick-skulled pig, insensible. The largest professional associations in the country recommend larger bore shotguns than that chosen by the employee:

- The American Association of Swine Veterinarians—an association of over 1,300 veterinarians across the country who work in the pork industry—along with the National Pork Board, states that “[a] 12-, 16-, or 20-gauge shotgun can be used for grow/finish pigs and mature sows and boars. A 28- or 410-gauge shotgun is recommended *only for nursery pigs*.”³²
- The American Veterinary Medical Association, whose euthanasia guidelines are widely followed by the agriculture industry, states that “Twelve-, 16-, or 20-gauge shotguns are recommended for mature pigs.”³³

By attempting to slaughter a species of animal that required special considerations with a firearm that was unsuitable for any pig, the employee demonstrated a plain disregard for both federal law and pork industry standards that require an animal to be rendered insensible with a single shot:

- As documented in USDA's report, federal slaughter laws require that the plant “produce *immediate unconsciousness* in the animal by a *single shot*” and that the animal “shall be

³⁰ *Humane Killing of Livestock Using Firearms-Pigs*, HUMANE SLAUGHTER ASSOCIATION, <https://www.hsa.org.uk/humane-killing-of-livestock-using-firearms-positioning/pigs-2> (last visited Nov. 9, 2022).

³¹ Appendix B.

³² *On-Farm Euthanasia of Swine—Recommendations for the Producer*, NATIONAL PORK BOARD, <https://www.aasv.org/documents/2016EuthRec-EN.pdf> (last visited Nov. 9, 2022); see also Recommendations for the Depopulation of Swine, American Association of Swine Veterinarians, p.7, https://static1.squarespace.com/static/5eea3a11030a99078f9344f9/t/5ef3e45e7302c407f054259e/1593042015603/depopulation_recommendations.pdf (last visited Nov. 9, 2022) (emphasis added).

³³ *AVMA Guidelines for the Euthanasia of Animals: 2020 Edition*, AMERICAN VETERINARY MEDICAL ASSOCIATION, p.73, <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf> (last visited Nov. 9, 2022).

shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.”³⁴

- The American Veterinary Medical Association (“AVMA”) states that “[a] properly placed gunshot can cause *immediate insensibility* and a humane death” and that “the firearm should be aimed so that the projectile enters the brain, causing *instant loss of consciousness*.”³⁵
- The North American Meat Institute (“NAMI”), a trade association that represents companies that process 95 percent of beef, pork, and veal,³⁶ has established audit targets of 100% of animals being rendered insensible with a single shot and at most, suggests that two shots are the maximum acceptable range.³⁷

The employee’s actions, done with knowledge that they would cause suffering, indeed did cause suffering in the pig. This is evident in the USDA report which found that GHCP violated the Humane Methods of Slaughter Act, 7 U.S.C. § 1901, a law whose intent is to “prevent[] needless suffering.” The USDA record further indicates that the pig vocalized after the first and third shots³⁸, a sign of suffering. Science has long demonstrated that pigs feel pain and possess the capability to suffer³⁹ and studies indicate that vocalization, such as that which occurred here, is a sign of pain.⁴⁰

By ignoring widely recognized differences between thick-skulled pigs and other pigs, choosing a firearm roundly rejected by the pork industry for the purpose, and blatantly disregarding federal law and widely held pork industry standards, the employee caused the pig to be treated badly and suffer and did so with knowledge that such a result would occur. Accordingly, the employee should be charged with animal cruelty.

b. GHCP as a corporation

GHCP, the corporation, was also complicit in the pig’s suffering and should likewise be charged with animal cruelty.

³⁴ 9 CFR § 313.16(a)(1).

³⁵ *AVMA Guidelines for the Euthanasia of Animals – 2020 Edition*, AMERICAN VETERINARY MEDICAL ASSOCIATION, p.42, <https://www.avma.org/sites/default/files/2020-02/Guidelines-on-Euthanasia-2020.pdf> (last visited Oct. 31, 2022).

³⁶ *About NAMI*, NORTH AMERICAN MEAT INSTITUTE, <https://www.meatinstitute.org/index.php/d/sp/i/204/pid/204?ht=d/sp/i/204/pid/204> (last visited Oct. 31, 2022).

³⁷ *Recommended Animal Handling Guidelines and Audit Guide: A Systematic Approach to Animal Welfare*, THE NATIONAL MEAT INSTITUTE, p. 53, <http://certifiedhumane.org/wp-content/uploads/animal-handling-guidelines-June152017.pdf> (last visited Oct. 31, 2022).

³⁸ Appendix A.

³⁹ M. Herskin, *Pain in pigs: Characterisation, mechanisms, and indicators*, WOODHEAD PUBLISHING SERIES IN FOOD SCIENCE, TECHNOLOGY AND NUTRITION (2018).

⁴⁰ S. Ison, et al., *A Review of Pain Assessment in Pigs*, FRONT. VET. SCI. (2016) (discussion on causes of vocalization including painful palpitation and procedures).

As stated above, the term “person” as used in the cruelty statute, includes corporations.⁴¹ Corporations have been charged with criminal offenses in Virginia for over 150 years.⁴² According to the Supreme Court of Virginia, “the rule has long been” that corporations can be criminally charged in Virginia.⁴³ Thus, if GHCP is a corporation, it is not shielded from criminal charges.

Virginia State Corporation Commission records reflect multiple limited liability corporations named “Gentle Harvest”⁴⁴ that appear affiliated with GHCP. However, it is not necessary to prove that GHCP is a corporation before issuing a warrant as the Supreme Court of Virginia has held that, “[i]n criminal prosecutions against corporations, the fact of the incorporation of defendant does not have to be proven unless such fact is put in issue.”⁴⁵

As a corporation, GHCP directly caused the pig to be treated badly and suffer through a series of failures:

- The corporation failed to properly train its employees and plant manager to identify species of animals—such as the Vietnamese pot-bellied pig or other thick-skulled pigs—who may dictate specific slaughter procedures.
- The corporation failed to properly train its employees on methods of stunning and slaughter as evidenced by the employee’s inability to stun the pig with the first three shots.
- The corporation failed provide the proper firearms to stun and slaughter animals as evidenced by the plant manager’s decision to provide the employee a .410 shotgun and the employee’s decision to use it. Per the discussion above, a .410 shotgun is unsuitable for any mature pig, much less a Vietnamese pot-bellied pig or other thick-skulled pig.
- The corporation failed to train its plant manager to intervene in cases of egregious inhumane handling as evidenced by the plant manager’s decision to simply hand the employee a different—and improper—firearm versus taking over the situation. The plant manager’s decision caused the pig to suffer two more firearm blasts to the head before being finally rendered unconscious.

⁴¹ Va. Code Ann. § 1-230 (“‘Person’ includes any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.”).

⁴² See *Commonwealth v. Olan Mills, Inc.*, 196 Va. 898 (Va. 1955) (warrant issued for corporation for operating business without a license); *Lithgow v. Commonwealth*, 4 Va. 297, 306 (Va. 1822) (Perhaps the strongest authority derived from the books on Criminal Law, is to be found in the valuable collection of precedents made by Chitty in his *Treatise on Criminal Law*, in which there are many precedents of Indictments for larceny and other wrongs against Corporate bodies, in none of which is the political existence of the body stated, otherwise than by the mere existence of the name.);

⁴³ *Postal Tel.-Cable Co. v. Charlottesville*, 126 Va. 800, 802 (Va. 1919) (“Whatever may have been the holding of earlier cases as to the non-liability of a corporation to indictment or other criminal process, the rule has long been otherwise in many States of the Union, including Virginia.”).

⁴⁴ “Gentle Harvest,” VIRGINIA STATE CORPORATION COMMISSION, <https://cis.scc.virginia.gov/EntitySearch/Index> (last visited Oct. 31, 2022).

⁴⁵ *Slaughter v. Commonwealth*, 54 Va. 767 (Va. 1856).

As an establishment in the business of slaughtering animals, the corporation knew, should have known, and was charged with knowing what species of animals it was capable of slaughtering, how employees and plant management should conduct slaughter, and what firearms were acceptable for such tasks. By creating an environment where employees and management openly flouted widely accepted practices, the corporation caused the pig to be treated badly and suffer and should be criminally charged.

c. The plant manager

In addition to the employee and corporation, the plant manager should also be criminally liable for animal cruelty. His/her actions directly contributed to the pig's suffering.

Virginia law makes clear that those who aid wrongdoers are criminally liable. “[U]nless otherwise stated, if a statute makes an act criminal, it imposes on all persons who are present purposely giving aid and comfort to the actual wrongdoer criminal responsibility equal to that of the wrongdoer.”⁴⁶ “[W]hether such crime was originally contemplated or not, all who participate in any way in bringing it about are equally answerable and bound by the acts of every other person connected with the consummation of such resulting crime.”⁴⁷

Here, the plant manager acted in concert with the employee to cause unnecessary suffering and did so in a manner they knew, should have known, or were charged with knowing would cause such suffering:

- The plant manager, presumably charged with the operation of the plant, failed to prevent the specific species of pig from entering the slaughter line. The plant manager knew, should have known, or is charged with known which species are suited for slaughter at the plant and should act to prohibit entry of those who are not. By failing to prevent the slaughter of the pig in question, the plant manager caused the pig to be treated badly and suffer.
- The plant manager provided an inadequate firearm, the .410 shotgun, to the employee. As stated above, it is widely known in the pork industry that a .410 shotgun is insufficient to kill any mature pig, much less a thick-skulled pig. As the manager of a pork slaughter plant, he/she is charged with such knowledge and his/her failure to act on it led to the pig's suffering.
- In addition to providing an inadequate firearm, the plant manager is responsible for allowing the employee to take a third and fourth shot with the shotgun without intervening to administer a proper stun. The plant manager knew that the employee had already taken two unsuccessful shots and was clearly inept at properly stunning the animal. Regardless, the manager allowed the employee to take two additional shots at the animals' head which caused even more suffering.

⁴⁶ Ibid.

⁴⁷ Id. at 528.

The plant manager's actions constitute rendering aid to the employee in the commission of a crime. As a result of his/her contributions to this crime, the plant manager should be criminally charged.

C. GHCP cannot avail itself of the “farming activity” exemption as its conduct is not “consistent with standard animal husbandry practices.”

While Virginia's cruelty law contains an exemption for certain farming practices, GHCP's egregious conduct falls far beyond the bounds of the exception and is subject to prosecution.

The law states that the animal cruelty statute “shall not prohibit . . . farming activities as provided under this title or regulations adopted hereunder.”⁴⁸ The law further defines a “farming activity” as one that is:

consistent with standard animal husbandry practices, the raising, management, and use of agricultural animals to provide food, fiber, or transportation and the breeding, exhibition, lawful recreational use, marketing, transportation, and slaughter of agricultural animals pursuant to such purposes.⁴⁹

The critical qualifier necessary to trigger this exemption is that any “management,” “use,” or “slaughter” of “agricultural animals” must be “*consistent with standard animal husbandry practices*.” Said differently, any conduct that is *inconsistent* with standard animal husbandry practices is not exempted.

As detailed above, GHCP's conduct violated numerous “standard animal husbandry practices”, including those mandated by the federal government, the American Veterinary Medical Association, the American Association of Swine Veterinarians, the North American Meat Institute, and the Humane Slaughter Association. Accordingly, GHCP's conduct is not consistent with “standard animal husbandry practices” and therefore does not qualify as a “farming activity” under Virginia law. Thus, GHCP is not shielded from prosecution by the exemption.

III. CONCLUSION

As a direct result of its conduct, GHCP ill-treated and inflicted unnecessary pain and suffering on a helpless pig during slaughter. GHCP failed to recognize that it should not be attempting to slaughter the pig in the first place, failed to use proper equipment, failed to administer stuns properly, failed to train employees, and failed to intervene when the suffering began.

Moreover, GHCP cannot avail itself of the “farming activity” exemption as its conduct was inconsistent with standard practices according to every reputable agricultural authority. Finally, GHCP is not immune from prosecution under Virginia law merely because it is a federally inspected slaughterhouse—both the United States Supreme Court and the USDA have made this point clear.

⁴⁸ Va. Code Ann. § 3.2-6570(D).

⁴⁹ Va. Code Ann. § 3.2-6500.

We respectfully request that criminal charges are filed against GHCP as a corporation, the plant manager, 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.

A handwritten signature in black ink that reads "Will Lowrey". The signature is written in a cursive, flowing style.

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