

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF NATURAL RESOURCES

In the Matter of the Appeal of the Civil  
Trespass Citation Issued to William  
John Bulinski; Citation No. 46107

**FINDINGS OF FACT,  
CONCLUSIONS AND  
RECOMMENDATION**

This matter came on for a Prehearing Telephone Conference before Administrative Law Judge Barbara L. Neilson on July 31, 2012. William J. Bulinski and Department of Natural Resources (DNR) Conservation Officer Matt Frericks participated in the Conference. Officer Frericks called John Templeton as a witness. The parties agreed that no formal hearing would be needed and that the Administrative Law Judge could make a recommendation based on the record created during the Prehearing Telephone Conference. The OAH record closed at the conclusion of the conference call on July 31, 2012.

**STATEMENT OF ISSUE**

The issue presented in this matter is whether William J. Bulinski was properly issued a civil citation under Minn. Stat. § 97B.002<sup>1</sup> on February 16, 2012, for trespassing on private property.

The Administrative Law Judge concludes that Mr. Bulinski violated Minn. Stat. § 97B.002 on that date, and recommends that the Commissioner affirm the Citation.

Based on the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. William Bulinski has lived in Eveleth, Minnesota, for 16 years. He has health issues, but is able to take his dog on 20-minute walks several times a day. He typically keeps his dog on a leash for a time, then takes his dog off the leash. Many of the trails he uses in Eveleth lead to land owned by United Taconite (UTAC).<sup>2</sup>

2. John Templeton is a Security Officer employed by General Services Security Corporation. His company has a contract with UTAC to provide private security services at the UTAC plant located in Eveleth, Minnesota. There are hazards on the mining property, such as unmarked trails, unmarked mine shafts, and hilly

---

<sup>1</sup> Unless otherwise noted, all citations to Minnesota Statutes are to the 2011 edition.

<sup>2</sup> Testimony of William Bulinski.

terrain. Mr. Templeton's duties include providing physical security for individuals who may wander onto property owned by UTAC. He typically checks trails on the mining property during each shift.<sup>3</sup>

3. UTAC property is posted "no trespassing" on the primary corners of each parcel of land and at intervals of 500 feet in the woods. The signs say "No Trespassing," provide United Taconite's name and phone number, and include a citation to the state statute, along with a warning that persons on the property may be arrested for trespassing. The letters on the sign are at least 2 inches high.<sup>4</sup>

4. On February 16, 2012, while checking one of the trails that starts on public property in West Eveleth and leads onto UTAC property, Mr. Templeton noticed the footprints of a man and a dog in the fresh snow. The footprints started on public property, but continued onto UTAC property. The footprints extended approximately 50 yards beyond a "No Trespassing" sign which was posted on a birch tree on the side of the trail. The two sets of footprints were right next to each other when they first entered the UTAC property. Mr. Templeton followed the footprints and eventually encountered William Bulinski. Mr. Bulinski's dog was off his leash further in the woods. Mr. Bulinski turned and asked if he was trespassing. Mr. Templeton told him he was, and asked to see his driver's license. Mr. Bulinski told Mr. Templeton he didn't have his license with him and began walking away. He told Mr. Templeton to go ahead and arrest him for trespassing. Mr. Templeton asked Mr. Bulinski to stop, but Mr. Bulinski started walking north on a public street. Mr. Templeton drove up to Mr. Bulinski and asked for his name and address. Mr. Bulinski was agitated at first, but eventually was cooperative.<sup>5</sup>

5. Mr. Templeton contacted Conservation Officer Matt Frericks and emailed a report to him regarding the incident. Officer Frericks met with Mr. Bulinski, and Mr. Bulinski admitted that he was on UTAC land. Officer Frericks issued Mr. Bulinski Civil Citation No. 46107, in the amount of \$50. The Citation alleged that Mr. Bulinski had trespassed on private land or posted land, or removed a sign posted to prevent trespass, in violation of Minn. Stat. § 97B.002.<sup>6</sup>

6. Mr. Bulinski timely appealed the Citation. In his letter of appeal, he stated that he was simply retrieving his dog on the day in question and maintained that this was a "one time situation." He pointed out that he is 65 years old and on a disability pension, and asked that the citation be withdrawn and only a warning given.<sup>7</sup>

Based on the Findings of Fact, the Administrative Law Judge makes the following:

---

<sup>3</sup> Testimony of John Templeton.

<sup>4</sup> Testimony of Matt Frericks and J. Templeton.

<sup>5</sup> Testimony of J. Templeton.

<sup>6</sup> Testimony of Officer Frericks; Citation No. 46107.

<sup>7</sup> Letter from of March 16, 2012.

## CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Natural Resources have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 116.072, subd. 6.
2. Conservation Officers employed by the DNR are authorized to issue citations to a person who violates Minn. Stat. § 84.90 or 97B.001 or removes a sign posted to prevent trespass without permission of the owner of the property.<sup>8</sup>
3. The Department has substantiated the violation and Citation. Mr. Bulinski admitted he trespassed on private property, as charged in the Citation.
4. It is appropriate that the Commissioner affirm Civil Trespass Citation No. 46107 and require Mr. Bulinski to pay a \$50 fine for violating Minn. Stat. § 97B.002.
5. These Conclusions are reached for the reasons discussed in the attached Memorandum, which is incorporated in these Conclusions.

Based on the Conclusions, the Administrative Law Judge makes the following:

## RECOMMENDATION

**IT IS RECOMMENDED** that the Commissioner of Natural Resources **AFFIRM** Citation No. 46107 issued to William John Bulinski on February 16, 2012.

Dated: August 30, 2012

s/Barbara L. Neilson  
\_\_\_\_\_  
BARBARA L. NEILSON  
Administrative Law Judge

Reported: Digitally Recorded; No Transcript Prepared.

## NOTICE

Pursuant to Minn. Stat. § 116.072, subd. 6 (e), the Commissioner may not issue a final order until at least five days after receipt of the report of the Administrative Law Judge. The persons to whom the order is issued may, within those five days, comment to the Commissioner and the Commissioner will consider the comments. The Commissioner must send a copy of the final decision to William J. Bulinski. The final order of the Commissioner may be appealed pursuant to Minn. Stat. §§ 14.63-14.69. If the Commissioner fails to act within 90 days after the record closes, this recommendation will become the final decision in this matter.

---

<sup>8</sup> Minn. Stat. §97B.002, subd. 1.

## MEMORANDUM

Mr. Bulinski argued that the citation should be withdrawn for several reasons. He asserted that he only walked slightly over the UTAC boundary line because he needed to retrieve his dog, who had run into the woods after a rabbit. He contended that he put the dog back on his leash and was walking back toward public property when he met Mr. Templeton. He asserted that he did not see the first "No Trespassing" sign because it was covered by snow and he suffers from blurred vision, but acknowledged that there was a second, larger sign. He also contended that he was very ill that day with a virus and maintained that Mr. Templeton has been "harassing," "stalking," and "interrogating" him for years even when he is on public property, and contended that he would be seeking a restraining order against Mr. Templeton in the near future. He also complained that it used to be permissible to walk in the area where he was on February 16, but UTAC has moved its "No Trespassing" signs in recent years and is now taking a more restrictive approach. Finally, Mr. Bulinski indicated that he has a number of outstanding medical bills and has no ability to pay the citation.

Mr. Templeton disagreed with many of Mr. Bulinski's assertions. He indicated that the first "No Trespassing" sign was plainly visible despite the new-fallen snow and that Mr. Bulinski's footprints passed within 2 to 3 feet of the sign. Based upon Mr. Templeton's observation of the footprints, it appears that the dog did not start chasing the rabbit while still on public property, as Mr. Bulinski contended, but rather that the dog was walking close to Mr. Bulinski when they first entered the UTAC property. Mr. Templeton also pointed out that the footprints in the snow demonstrated that Mr. Bulinski had walked a significant distance beyond the "No Trespassing" sign. Moreover, Mr. Templeton indicated that Mr. Bulinski was not headed back toward public property with his dog when he first saw him, but instead was standing still, looking toward the southeast. Mr. Templeton denied harassing Mr. Bulinski and stated that he has only had contact with Mr. Bulinski on perhaps two other occasions. On one of those occasions, Mr. Templeton caught Mr. Bulinski on UTAC property and saw his dog run into the woods.

Mr. Bulinski does not deny that he was trespassing on UTAC land on the day in question. It appears that he and Mr. Templeton have had prior interactions and that he has been previously warned to stay off of UTAC land. Mr. Templeton's testimony regarding the events of February 16, 2012, was more straightforward and credible. Under all of the circumstances, the Administrative Law Judge recommends that the Citation be affirmed.

**B. L. N.**