

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	AWA Docket No. D-08-0184
KATHLEEN BAIRD,)	
)	
Petitioner)	Decision and Order

1. The Petitioner, Kathleen Baird (Petitioner Baird), represents herself (appears *pro se*). The Respondent, the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), is represented by Colleen A. Carroll, Esq.
2. This case was previously assigned to Chief Administrative Law Judge Marc R. Hillson, who had scheduled a one-day hearing. The Chief Judge reassigned this case to me, Administrative Law Judge Jill S. Clifton, on March 23, 2009.
3. APHIS’s Motion for Summary Judgment was filed on March 31, 2009. Petitioner Baird’s Response(s) were timely filed on May 13, 2009 and May 15, 2009. Petitioner Baird included in her Responses, her “Motion for Dismissal.” Ordinarily a Petitioner would not request dismissal of her own petition, so I have taken care to determine what Petitioner Baird was really asking for: Petitioner Baird asked me to undo APHIS’s denial of her request for a USDA Animal Welfare Act license.

Findings of Fact and Conclusions

4. The following mixed findings of fact and conclusions, lettered (a) through (h), are not in controversy, are established as a matter of Summary Judgment, and do not require a hearing in order to be proved.

(a) Petitioner Baird applied to APHIS in March 2008 for an Animal Welfare Act license.

(b) By letter dated August 20, 2008, APHIS denied Petitioner Baird's application, based in part on the requirements of 9 C.F.R. § 2.11(a)(6), which, among other things, prohibits the issuance of a license to any applicant who has provided any false records to USDA or other government agencies.

(c) APHIS advised Petitioner Baird that she may reapply for an Animal Welfare Act license one year from the date the denial of her application becomes final.

(d) Petitioner Baird's one year of waiting to reapply has not yet begun to run, because the denial of Petitioner Baird's application cannot become final while it is being appealed.

(e) Petitioner Baird's appeal began on September 9, 2008, when she filed this case. Petitioner Baird's appeal is ongoing.

(f) The Tennessee Wildlife Resources Agency (TWRA), a government agency, had in its possession a record which had been falsified, a USDA AWA exhibitor's license naming Susan Aronoff as the licensee (the purported license bore the false expiration date of February 16, 2008; the true license showed instead an expiration date of February 16, 2006).

(g) Petitioner Baird acknowledges that she sent to TWRA the Susan Aronoff USDA AWA exhibitor license and maintains that she did not falsify it.

(h) TWRA, through Walter T. Cook, its Captive Wildlife Coordinator, maintains that Petitioner Baird provided the false record to it in about February 2007 as part of Petitioner Baird's application for a TWRA Class I Wildlife permit. [Class I felids includes lions and tigers.] TWRA, again through Walter T. Cook, maintains that Petitioner Baird again provided the false record to it in about October 2007, in follow-up to her application to TWRA.

5. Based on the foregoing mixed findings of fact and conclusions, lettered (a) through (h), which are not in dispute, summary judgment in favor of APHIS is GRANTED, for the reason that APHIS has proved that Petitioner Baird provided the false record to the Tennessee Wildlife Resources Agency, a government agency. It is not necessary that APHIS prove who falsified the Susan Aronoff USDA AWA exhibitor license that bore the false expiration date of February 16, 2008.

Order

6. This Decision affirms APHIS's denial of Petitioner Kathleen Baird's application for a USDA Animal Welfare Act license, contained in APHIS's letter dated August 20, 2008, based on the requirements of 9 C.F.R. § 2.11(a)(6), which prohibits the issuance of a license to an applicant who provided a false record to a government agency, to-wit, the Tennessee Wildlife Resources Agency.

7. Consequently, the hearing, scheduled for July 21 through 23, 2009, in Tampa, Florida, is not necessary and will be canceled by separate Order.

8. Petitioner Kathleen Baird is disqualified from being granted a USDA Animal Welfare Act license for a period of 1 year from the effective date of this Order. This Order is effective on the day after this Decision becomes final (*see* the following section regarding finality).

9. Petitioner Kathleen Baird may apply for an Animal Welfare Act license 60 days prior to the end of the 1 year period of disqualification, with the understanding that no license will issue until disqualification has ended.

Finality

10. This Decision and Order shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see enclosed Appendix A).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.
this 29th day of May 2009

Jill S. Clifton
Administrative Law Judge

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