

**IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA**

_____)
CHELSEY V. MORTON and JENNIFER)
ROBINSON,)

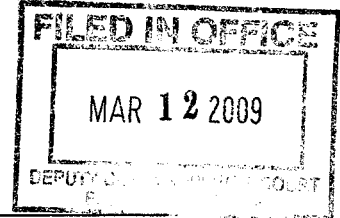
Plaintiffs,)

v.)

STATE OF GEORGIA DEPARTMENT)
AGRICULTURE, and TOMMY IRVIN,)
In his Official Capacity as Commissioner,)

Defendants.)
_____)

Civil Action File No. 2007-CV-130839



ORDER ON MOTION FOR SUMMARY JUDGMENT

Plaintiff has brought this action to compel the Defendant, the Georgia Department of Agriculture, to enforce O.C.G.A. § 4-11-5.1. That statute, a part of the Georgia Animal Protection Act, sets the standard in Georgia for the humane euthanasia of dogs and cats. Plaintiffs allege that Defendants have continued to license shelters that use non-statutory means of euthanasia and to encourage and promote such practice, an act which Defendants have no discretion to do. On July 23, 2008 the Court entered an order denying Defendants' Motion to Dismiss. The Court hereby incorporates by reference all of the findings of fact and conclusions of law contained within the Court's July 23, 2008 order. The Court, having reviewed the briefs, arguments and citation of authority presented by counsel, enters the following order on Plaintiff's Motion for Summary Judgment:

On a motion for summary judgment the burden is on the movant to establish the lack of a genuine issue of material fact and the right to judgment as

a matter of law. O.C.G.A. § 9-11-56 (c). Any doubt as to the existence of an issue is resolved against the movant and the respondent is given the benefit of all doubts and favorable inferences that may be drawn from the evidence. *Mrozinski v. Pogue*, 205 Ga. App. 731 (Ga. Ct. App. 1992).

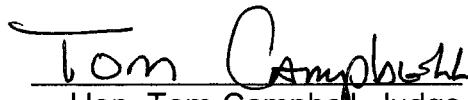
Having carefully reviewed the record, the Court finds that there is no genuine issue of fact regarding Defendants failure to enforce O.C.G.A. § 4-11-5.1.

IT IS HEREBY ORDERED that Defendants are permanently enjoined from authorizing, allowing or encouraging the illegal gassing of dogs and cats.

IT IS FURTHER ORDERED that any licenses illegally issued by Defendant are null and void.

All matters pending before the Court, having been ruled on by the Court, the Clerk of Court is directed to close this file.

SO ORDERED this 12th day of March, 2008.


Hon. Tom Campbell, Judge
Superior Court of Fulton County
Atlanta Judicial Circuit

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