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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA,)	
)	CASE NO. SAO25054
Plaintiff,)	
)	PEOPLE'S RESPONSE TO
V.)	DEFENDANT'S MOTIONS FOR
)	NEW TRIAL, TO REDUCE
VLADIMIR TOM VALTER,)	CHARGES, AND SENTENCING
)	MEMORANDUM
Defendant.)	
)	P & S HEARING
)	AUGUST 19, 1997
)	DIVISION I - MALIBU

TO THE HONORABLE LAWRENCE MIRA, TO THE DEFENDANT V. TOM VALTER, AND TO HIS ATTORNEY MICHAEL ARTAN:

The People of the State of California oppose the Defendant's motion for a new trial and his motion to reduce the charges to misdemeanors. The People submit that the Defendant has been found guilty of four felonies following a full and fair trial and should be sentenced accordingly.

The People's response will be based on the record of this case, the attached argument and authority, and any other consideration the court accepts.

I. DEFENDANT'S MOTION FOR NEW TRIAL

The defendant has failed utterly to describe any circumstances which justify a new trial. Having had more than one year to gather evidence and decide trial strategy, the defendant now resorts to petty character assassination and attacks on collateral issues.

To entitle a party to have a new trial on the ground of newly discovered evidence, it must appear that the evidence (not merely its materiality) is newly discovered, that the evidence is not merely cumulative, that it is such as to render a different result

probable on retrial of the cause, that the party could not with reasonable diligence have discovered and produced it at trial, and that those facts be shown by the best evidence of which the case admits. People v. Owens, 252 Cal. App. 2d 548 (1967), People v. McGarry, 42 Cal. 2d 429 (1954).

None of the purported "new" evidence - including comments of civil counsel, disputes over tax records, or contentions as to what the defendant's wife might now testify to (having sat through the entire trial taking verbatim notes of testimony) - is material, nor does it hold any promise of changing the carefully considered verdict in this case.

The defendant and his wife (by her affidavit) seem particularly interested in discrediting Denise McMillan, yet her testimony at trial went primarily towards countering the defendant's version of his 1991 ride before Dr. Klimke. Once the court decided not to consider the 1991 incident, Ms. McMillan's testimony was largely moot. Ms. McMillan was not a percipient witness to any of Zoolog's abuse.

As to the Coles, the People object to consideration of the lately delivered affidavit of W. Joseph Shields, who apparently visited them on August 9th of this year (a day after the last scheduled date for new trial arguments and sentencing). In a brief contact with Robin Cole this morning, she made it clear that the affidavit is truncated, unfairly summarizes the Coles' comments, and that they were selectively chosen out of context of a longer conversation. The People have had no opportunity to have an investigator call and document the Coles' recollection of the talk with Mr. Shields. Even on their face, the comments are innocuous and show no intent to lie or misrepresent any facts.

Having disillusioned Robin Cole by abusing Zoolog to get him to perform dressage movements and by further implying it would do her career no good to give evidence against him, the defendant now claims that she holds a grudge against him. He implies that this grudge led Robin to testify falsely in some vein. This is circular reasoning at its most absurd.

II. THE PEOPLE OPPOSE THE DEFENDANT'S MOTION TO REDUCE COUNTS 3, 4, 5 AND 6 TO MISDEMEANORS.

As the evidence amply demonstrated, the defendant intentionally progressed from beating Zoolog with a regular dressage whip to the use of a whip with a tack, a whip with a nail, and then to a harsh bit and cattle prod. He used these devices in order to break the

horse's resistance, and ultimately, his spirit. We may never know whether Zoolog resisted doing what his rider required due to pain, fear, or a disposition soured by competition.

Valter's methods were deemed unnecessary, cruel and inhumane by the People's witnesses. The defendant and his supporters persist in seeing them as a means to an end.

The defendant suggested that if Zoolog were not restored to competitive shape, he might have been put down or put out to pasture (is that really so bad?), but there was no evidence that this was the case. The defendant might well have been able to achieve what little progress was made by other means, such as simply taking a longer time to remuscle the stallion which he received in debilitated condition.

The defendant's use of the electric cattle prod was especially cruel and unnecessary. Contrary to the contrived air of scientific inquiry the defendant attempted to convey in his testimony, the defendant's actual behavior and comments (laughing "I guess it works") when Zoolog reacted to the shock shows that the defendant enjoyed a perverse pleasure in finding a device to overpower Zoolog once and for all. While it may not have been the defendant's intention to torture Zoolog, the repeated application of the prod had that result.

As the defendant points out, the range of actions and omissions covered in Penal Code Section 597(b) includes everything from torture and mutilation to failure to provide shelter. The defendant argues that the charges he was convicted of are most similar to "polling", a misdemeanor under Penal Code Section 597g.

The People contend, however, that knocking a horse in the legs with a pole (albeit one imbedded with sharp objects) as he goes over a jump is different from whipping his hindquarters with a nail. Moreover, repeated violations of 597g could well amount to a felony under 597(b). Besides those considerations, the defendant's use of the cattle prod clearly falls on the felonious side of the continuum.

The defendant should stand convicted, as he was charged, of felony offenses in this case. After the successful completion of a substantial period of probation and the satisfaction of the court's orders and conditions, the court may want to consider rewarding the defendant's compliance by reducing some or all of these offenses.

As discussed below, however, the defendant has thus far shown no acceptance of the court's ruling and no remorse for his actions. Nor has he made reparations for the damages he has caused and continues to cause to the dressage world by his actions. To reward

his present attitude with reduction of the charges to misdemeanors would be tantamount to accepting the defendant's rationalization for his actions.

III. SENTENCING MEMORANDUM

The defendant has submitted dozens of letters from supporters, mostly in California, and a few from other states. The defendant has also submitted a letter to the court.

A common theme of almost all of these letters is their acceptance of the defendant's version of the facts and that the abuse was a necessary means to an end. They say the defendant and his reputation have suffered greatly from adverse publicity and suggest that probation is the only further burden the defendant should have to bear.

While some of the writers are more direct than others, it is also clear that the majority do not respect and accept the verdict of this court. Although not one of these persons was present for any significant amount of testimony, they protest the court's finding and regurgitate defense theories that the defendant's case was the concoction of disgruntled females whom the defendant should have treated differently. One writer even seems to suggest that the women should have been roughed up by the defendant!

As the court knows, this misogynistic view of the evidence is incorrect. George Williams, a leading male dressage trainer, testified against the defendant's methods; Rudy Cole testified as a percipient witness to the defendant's use of the cattle prod and whip with the nail; Dr. Gerald Hackett, a respected professor and doctor of veterinary medicine, lent his expertise to both sides in the case.

The many letters of support sent to the court indicate that not only is the defendant's career as a trainer far from over, but also that he continues to be sought out and paid handsomely to train horses. Although the defendant claims to be in debt due to his defense of this case, Arthur Schmutz testified that the defendant has nearly 20 horses in training at the Paddock. If the defendant charges his regular monthly fee of \$600 each, his gross income would be nearly \$12,000/month, not counting any community property interest in the earnings of his psychologist wife, Dr. Valter.

Those who support and employ him either do not care what methods he uses if it makes their horses more valuable, believe that the abuse of Zoolog was an aberration, or, more disturbingly, accept the

defendant's explanation that he was unjustly convicted.

It is clear from these letters that the defendant or people close to him are telling others that the court was wrong to convict him. This unrepentant attitude undermines our judicial system and is an insult to the court which undertook such a patient and thorough review of the evidence in this case.

MAXIMUM SENTENCE

Count 3 =	3 years State Prison
Count 4 (1/3 mid-term of 2)=	8 months S.P.
Count 5 (1/3 mid-term of 2)=	8 months S.P.
Count 6 (1/3 mid-term of 2)=	8 months S.P.

Total	5 years State Prison
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CIRCUMSTANCES IN AGGRAVATION

1. California Rules of Court, Rule 421 (a)(3). The victim was particularly vulnerable.
2. California Rules of Court, Rule 421 (a)(8). The planning, sophistication or professionalism with which the crime was carried out, or other facts, indicate premeditation.

CIRCUMSTANCES IN MITIGATION

1. California Rules of Court, Rule 423 (a)(3). The crime was committed because of an unusual circumstance such as great provocation, which is unlikely to recur (so long as the defendant is not brought a similar horse to restrain).
2. California Rules of Court, Rule 423 (b)(1). The defendant has no prior record.

As the factors balance out, it is suggested that if state prison is imposed, the sentence should be mid-term. Nevertheless, it is likely the court will want to give the defendant a chance to prove himself on probation. The People submit that probation should not be granted unless the defendant actually acknowledges wrongdoing and does so in a public way so that others will accept that what he did was wrong.

The People therefore ask the court to impose the following minimum sentence as punishment for the defendant's actions and a deterrence

to others:

THREE YEARS FELONY PROBATION

90 DAYS COUNTY JAIL OR EQUIVALENT HOUSE ARREST

\$80,000 FINE (MAXIMUM OF \$20,000 FOR EACH COUNT)

TRAINING ONLY UNDER THE SUPERVISION OF AN A.H.S.A.-SELECTED TRAINER FOR ONE YEAR

200 HOURS COMMUNITY SERVICE AT THE AGOURA ANIMAL SHELTER (SUPERVISED BY ANIMAL CONTROL OFFICER)

PUBLICATION OF AN OPEN LETTER ACCEPTABLE TO THE COURT IN TONE AND CONTENT REFLECTING THE SPECIFIC FACTS OF THE DEFENDANT'S CONVICTIONS AND ATTITUDES OF REMORSE IN EACH OF THE FOLLOWING PUBLICATIONS AND WEBSITES:

The Chronicle of the Horse
Practical Horseman
Dressage & CT
Dressage Today
Ride Magazine
AHSA publication "Horse Show"
<http://www.haynet.net>
<http://www.agdirect.net>
<http://www.horsequest.com>

Respectfully submitted,

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By:



ELLEN J. ARAGON
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DATED: AUGUST 19, 1997