



Issue Date: January 24, 2025

Citation: *Jia v. Canada (Environment and Climate Change)*,
2025 EPTC 1

EPTC Case No: 0018-2024

Case Name: Jia v. Canada (Environment and Climate Change)

Applicant: Jaimie Jia

Respondent: Minister of Environment and Climate Change Canada

Subject of proceeding: Review commenced under section 15 of the *Environmental Violations Administrative Monetary Penalties Act*, S.C. 2009, c. 14, s. 126 of an Administrative Monetary Penalty issued under section 7 of that Act for a violation of section 5(1) of the *Migratory Bird Sanctuary Regulations*, C.R.C., c. 1036, enacted under the *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22.

Heard: In writing

Appearances:

Parties

Jaimie Jia

Minister of Environment and
Climate Change Canada

Representative/Counsel

Self-represented

Hanna Davis (Counsel)

DECISION DELIVERED BY:

HEATHER GIBBS

Introduction

[1] Jaimie Jia (the “Applicant”) was walking her two dogs along Cadboro Bay Beach on Vancouver Island on April 12, 2024. The beach is within an area designated as the Victoria Harbour Migratory Bird Sanctuary (“MBS”). The dogs were off-leash. A bystander took photos and a video of the Applicant and her dogs, and reported the incident to Wildlife Enforcement Officer Justin Ziola.

[2] Officer Ziola recognized the person in the video as being Jaimie Jia, given that he had previously issued a warning to her regarding off-leash dogs in this area. On May 18, 2024, Officer Ziola issued a Notice of Violation (“NOV”) to the Applicant, with a penalty in the amount of \$400. The NOV alleges that the Applicant violated s. 5(1) of the [Migratory Bird Sanctuary Regulations](#) (“MBSR”) under the [Migratory Birds Convention Act, 1994](#), by “permitting a dog or cat to run at large in a migratory bird sanctuary.”

[3] The Applicant requested a review of the Notice of Violation by the Environmental Protection Tribunal of Canada (EPTC).

[4] For the following reasons, the Applicant’s request for review is dismissed and the NOV is upheld.

Relevant Legislation

Migratory Bird Sanctuary Regulations, C.R.C., c. 1036

5 (1) No person who owns a dog or cat shall permit the dog or cat to run at large in a migratory bird sanctuary.

Migratory Birds Convention Act, 1994, S.C. 1994, c. 22

13 (1) Every person commits an offence who

(c) contravenes any provision of the regulations designated by regulations made under paragraph 12(1)(l);

Facts

[5] The parties filed a “partial agreed statement of facts” with the Tribunal. This document confirms that the following facts (among others) are agreed upon by both ECCC and the Applicant:

- Ms. Jia was present with her dogs on Cadboro Bay Beach at approximately 9 am on April 12, 2024, and the dogs were not leashed.
- The area where Ms. Jia was walking with her dogs on April 12 is part of the Victoria Harbour Migratory Bird Sanctuary.
- Ms. Jia interacted with Curby Klaibert at the time.

[6] Counsel for Environment and Climate Change Canada (“ECCC”) filed a supplemental statement of facts, including a sworn statement from Curby Klaibert. Mr. Klaibert took pictures of Ms. Jia and her dogs on April 12 and forwarded this information to Wildlife Officer Ziola. Counsel for ECCC also filed a sworn statement by Wildlife Officer Ziola to confirm the issuance of the administrative monetary penalty (“AMP”), and confirmed that he recognized the woman in Mr. Klaibert’s photographs as Jaimie Jia from a previous interaction with her.

[7] The Applicant takes issue with a number of statements in Mr. Klaibert’s witness statement. In particular, she denies that her dogs chased or frightened any birds, and disagrees with the statement that the dogs were running at a distance from her.

[8] For her part, the Applicant filed videos and photographs to demonstrate that her dogs are well trained and have excellent recall when she whistles for them. In addition, she filed photos to show that Cadboro Bay beach is heavily used by the public, and she argues that it should not be considered a migratory bird sanctuary.

Analysis

[9] The Applicant makes detailed submissions as to why she believes that Cadboro Bay beach should not be designated as part of a protected migratory bird sanctuary. However, a Review Officer has no power under the [Environmental Violations Administrative Monetary Penalties Act](#), (S.C. 2009, c. 14, s. 126) (“EVAMPA”) to review the appropriate designation of a bird sanctuary. The powers of a Review Officer are laid out in sections 15 and 20(1) of EVAMPA and are limited to determining whether an administrative monetary penalty was correctly calculated, and whether the person who received the Notice of Violation committed a violation. Therefore, the only question before the Review Officer in this case is whether the Applicant’s dogs were running at large in a migratory bird sanctuary.

[10] There is no dispute that Cadboro Bay beach falls within the Victoria Harbour Migratory Bird Sanctuary.

[11] Section 5(1) of the MBSR states that no person who owns a dog or cat shall permit the dog or cat to run at large in a migratory bird sanctuary.

[12] The question then becomes whether an unleashed dog is considered to be “at large”. The MBSR does not include a statutory definition of the phrase “run at large”.

[13] The Applicant argues that her dogs are very well trained, with excellent recall. She provided videos demonstrating that her dogs respond immediately to a whistle. She contends that they were under her control at all times on April 12, and did not run after a migratory bird and cause it to take flight. Her argument is that, given that the dogs were under her voice control, they were not “running at large”.

[14] ECCC submits that to “run at large” means, in the MSRB, untethered to a leash. ECCC submits that the dog’s level of training or recall is immaterial.

[15] I find that ECCC’s submissions on this point are persuasive. An interpretation of “at large” to mean “unleashed” is consistent with a plain and ordinary meaning of the phrase. It also accords with the overarching purpose of the legislative scheme, which is the protection and conservation of migratory birds as populations and individual birds, and their nests.

[16] As an aid to statutory interpretation, I note that “at large” is a phrase used in other federal environmental statutes to mean “unleashed”. In particular, the [Wildlife Area Regulations](#) (C.R.C., c. 1609) to the [Canada Wildlife Act](#) (R.S.C. 1985 c. W-9) prohibit owners from allowing any domestic animal from running “at large” in a wildlife area *or being kept on a leash longer than three metres*. The leash length specification in the Wildlife Area Regulations is consistent with a general requirement for owners to exercise physical control in Wildlife Areas at all times by keeping their dogs on a leash.

[17] The Applicant’s preferred approach would effectively create an exception to s.5(1) of the MBSR to permit “recall trained” dogs to run freely in a migratory bird sanctuary. Such an exception would not accord with the purpose of the legislative scheme, to make owners responsible for their dogs and cats. It is unreasonable to interpret the provision such that a case-by-case assessment of the level of a dog’s training would be required prior to enforcement.

[18] My finding is also consistent with the EPTC decision in *Longpre v. Canada (Environment and Climate Change)*, 2023 EPTC 6, which also dealt with unleashed dogs on Cadboro Bay beach. In that case the Review Officer noted at para 19:

Within the context of protecting birds from dogs and cats, the phrase inevitably places responsibility on owners to restrain their animals so they do not harass or annoy the birds. Consequently, a dog running in a bird sanctuary without being restrained by a leash held by an owner is running at large contrary to section 5(1).

[19] The Applicant disputes statements by Mr. Klaibert relating to whether the dogs were running, how far they were from her, and whether they actually chased a migratory bird. These elements are not necessary for a finding that the Applicant violated s. 5(1) of the MBSR, and the Review Officer will make no finding on these points. The Applicant admits that the dogs were hers, they were in an MBS, and they were unleashed. These are the essential elements of the violation.

[20] I conclude that ECCC has demonstrated that the Applicant violated s. 5(1) of the MBSR when her dogs were off-leash on Cadboro Bay Beach, a migratory bird sanctuary.

Was the amount of the penalty correctly calculated?

[21] A Review Officer also has the ability to review the amount of the penalty issued in a Notice of Violation. The lowest penalty amount for a violation of s. 5(1) of the MBSR under the [Environmental Violations Administrative Monetary Penalties Regulations](#), (SOR/2017-109) is \$400, the amount that was assessed in this case.

[22] No party has alleged any error in the calculation of the penalty, and I see none. As a result, the amount of the penalty is upheld.

Decision

[23] For the reasons listed above, I uphold Notice of Violation no. 9500-0193A. The review is dismissed.

Review Dismissed

"Heather Gibbs"

HEATHER GIBBS
CHIEF REVIEW OFFICER