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Jerome Smith and his dog Jo-Jo were denied entry into the Holiday Bar on November 10, 2017. The general manager indicated he was concerned for the safety of the dog and the patrons in a crowded and potentially raucous environment, but he also contacted the police when Mr. Smith said he had a right to be there, attempting to verify if he could exclude Mr. Smith and his dog. Mr. Smith agreed to leave but requested an investigation be done on whether the general manager had violated Michigan's law regarding service animals.

Under MCL 750.502c, a service animal and its handler cannot be denied admission to a place of public accommodation based on a general concern about the well-being of the animal or how the patrons will react to the presence of the animal. Clearly the stated reason of the general manager was not a proper basis to exclude a service animal. However, there are several requirements before a service animal and its handler are entitled to the statute's protection. The section at issue in this case is MCL 750.502c(4) which states:

"A service animal shall be under the control of its handler, and shall have a harness, leash, or other tether, unless the handler is unable because of a disability to use a harness, leash, or other tether or the use of a harness, leash, or tether would interfere with the service animal's safe and effective performance of work or tasks..."

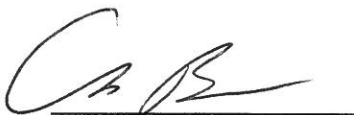
Jo-Jo was not on a harness, leash, or tether on November 10 when Mr. Smith attempted to enter the Holiday Bar. By Mr. Smith's admission, and from viewing the video from the bar as well as body camera video from Grand Rapids Police, Jo-Jo was dressed in a tuxedo outfit for dogs. It was the birthday of the Marine Corps, Mr. Smith and his friends were out celebrating the occasion, and Mr. Smith decided to dress Jo-Jo in this tuxedo to reflect this celebration. He also told police that he wished Jo-Jo would "match" because he is single and is looking for a wife and a family. Jo-Jo did not have a harness, leash, or other tether as required by section four of the statute. Because the dog was out of its harness not because of any reason related to Mr. Smith's disability, but for personal reasons, the dog was not "under the control of its handler" in the manner required by the statute.

This requirement of a leash/tether is not only mandated by the law, but in the training any service dog and handler receives. Grand Rapids Police contacted *This Able Veteran* where Mr. Smith obtained Jo-Jo and where the two of them went through training together. The President of *This Able Veteran* Pamela Largent told the detective, "All handlers are trained that their dogs are to be on a leash, and if they are working in a service manner, they are to have their

service dog vests on.” She further explained to the detective that there is a time to take a leash off the dog, “but this is not when they are not working in a service capacity. While working as a service dog, both handler and dog are trained to have a service vest on-this lets the dog know it is time to work and not play.” This requirement is also reflected in “*Frequently Asked Questions about Service Animals and the ADA*” which is distributed by the Civil Rights Division of the US Department of Justice. “The ADA requires that service animals be under the control of a handler at all times. The service animal must be harnessed, leashed, or tethered while in public places unless these devices interfere with the service animal’s work or the person’s disability prevents use of these devices.” Pg 6, Question 27: *What does under control mean? Do service animals have to be on a leash? Do they have to be quiet and not bark?*

Mr. Smith indicated to police he did have an electric shock collar on Jo-Jo with a remote control in his pocket and used that as a means of controlling Jo-Jo. This is not sufficient to meet the requirements of the statute. The statute clearly specifies that to be under the control of his handler a “harness, leash, or other tether” is required. A harness or leash clearly necessitate some form of connective device. There is no definition of what “other tether” means in the statute. We accord to every word or phrase of a statute its plain and ordinary meaning, unless a term has a special, technical meaning or is defined in the statute. *Casco Twp. v. Secretary of State*, 472 Mich. 566, 593 n. 44, 701 N.W.2d 102 (2005); MCL 8.3a. In ascertaining the plain and ordinary meaning of undefined statutory terms, we may rely on dictionary definitions. *Halloran v. Bhan*, 470 Mich. 572, 578, 683 N.W.2d 129 (2004). A “tether” under Merriam-Webster dictionary definition is, “a line (as of rope or chain) by which an animal is fasted so as to restrict its range of movement.” Using this definition as a guide, an electronic collar does not fit the requirement of “other tether” under the statute.

The Holiday Bar was clearly wrong in denying entry to Jo-Jo based on a concern for the safety of the dog and patrons. Under the law the only two specified reasons to deny entry are: (1) The service animal is out of control and its handler does not make an effort to control it, and (2) The service animal is not housebroken. It is my understanding that the Holiday Bar has since received training on how to handle requests for accommodations of service animals. Hopefully with this training they will better handle any proper requests in the future, and perhaps this incident will serve as a lesson to other public establishments that they need to be aware of the law and what is required. However, to file criminal charges in this incident, Mr. Smith and his dog also needs to fit within the statute’s parameters. Because Mr. Smith and his dog were not in compliance with the requirements of the statute, this office is unable to file any criminal charges in this matter. No charges will issue out of this incident.



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1-4-18

Date