

1 Attorney Cappetta.

2 MR. CAPPETTA: Thank you, Your Honor.

3

4 CLOSING ARGUMENTS

5

6 BY MR. CAPPETTA:

7 Your Honor, this case at its core is about
8 the criminalization of good intentions in turning
9 regulatory compliance into felony criminal
10 activity.

11 You heard from a lot of witnesses in this
12 case, the first of which was Alan Borgal, the
13 man who can't give a straight answer to a simple
14 question.

15 The kind of witness who gets shown e-mail
16 after e-mail after e-mail by the Prosecution
17 that he thinks incriminates Ms. Coleman, so he
18 remembers it right away and says it's hers, but
19 when he gets shown one e-mail by the defense that
20 he had an exchange with Ms. Coleman, he says,
21 "That must have gotten caught is my spam filter."

22 We know that's not how spam filters work;
23 spam filters don't catch messages from people
24 you regularly e-mail with.

25 Alan Borgal didn't write a report in this

1 entire case, and went out for apparently four
2 different inspections, never wrote a single
3 report, and told the Court that in his training,
4 he's not told to write reports if he goes out
5 with another inspector.

6 And despite the fact that Ms. Harrod, who
7 also testified, did write a report saying that
8 in those reports there is no references to
9 cleanliness being an issue, or conditions or
10 structure being an issue in 2015, Alan Borgal
11 insists that he told Ms. Coleman they were
12 problems, and that he did it at a Board meeting.

13 I contrast that with the testimony of
14 Ms. Harrod, which was, I think, a little bit
15 more reliable -- she says she can't really
16 remember if that came up, and it wasn't a focus.

17 And I'd ask you to take a look at that
18 contradiction in the two testimonies.

19 Now, after those initial 2015 inspections,
20 where Ms. Harrod notes nothing in her report
21 about there being a problem with the conditions
22 of the shelter, there is a time period of about
23 a year into -- I'm sorry, there's a time period
24 into about February of 2016 --

25 There's a time period up until about

1 December where Linda Harrod and Alan Borgal don't
2 go back to the shelter. There's about a year gap
3 between when Linda Harrod and Alan Borgal go back.

4 But in February of 2016, Bill Proctor, who
5 was employed by the State Department of Agriculture
6 at that point, does go to the shelter, and he
7 makes findings that everything there is fine,
8 the conditions are fine, everything is sanitary,
9 the dogs have enough food and water, the dogs
10 have enough light, the dogs get enough exercise;
11 everything is fine at the shelter in February
12 of 2016.

13 And the Commonwealth has charged this case
14 for a time period, from between 2015 and 2017.
15 I would argue to Your Honor that from 2015 to
16 February 20th -- from 2015 to February 20th of
17 2016, is off the table.

18 We've got an inspector who comes in from
19 the state and says, in February of 2016 that
20 this shelter is just fine.

21 Now, on December 14th, there's an unannounced
22 inspection by DAR; they have concerns; they talk
23 about the problems they think with the structure
24 of the building, and they say that a particular
25 drain is filthy, and they take a picture of

1 that drain.

2 And thank God they take a picture of that
3 drain because it's in evidence, and I'd ask
4 Your Honor to look at that drain and examine
5 whether or not Your Honor thinks that drain is
6 truly filthy.

7 There is some debris in the drain, there's
8 clearly enough exposure to the actual drainage
9 part to allow any water or anything that would be
10 intended to go down a drain to go through it.
11 And I think a characterization of filthy is
12 unfair, but I leave that to Your Honor.

13 Of course, if you show that picture to
14 Alan Borgal, he'll tell you there's micro feces
15 all over it. And micro feces is a new term
16 introduced to all of us at this trial. And it's
17 new and we've never heard it before because
18 it's not a real term.

19 What's micro feces? Micro feces is what
20 Alan Borgal says is present when you can't see
21 any feces in a photo of Greyhound Friends.

22 They tell you that they're unhappy that
23 the guillotine doors are shut and that a dog
24 has been placed on each side, and that's a small
25 inhumane place to keep an animal.

1 But you do have a picture, a better picture,
2 a fuller picture of what that kennel looks like
3 from further back than the picture that the
4 Commonwealth put into evidence, and you can see
5 that in that photograph, eight to nine human
6 beings can actually fit into that space. It is
7 certainly not an inhumane or inappropriate place
8 to keep a dog that's been saved.

9 They tell you that when they arrived on
10 12/14/2016 for an unannounced inspection they
11 see a vet, and that vet is there -- I think
12 Alan Borgal wouldn't admit that she was
13 administering veterinary care; all he would
14 admit to was that she was preparing medications.

15 She's preparing medications, and I would
16 argue to the Court that that is a critical
17 moment in this case, because they have a vet
18 who they know is regularly treating the animals
19 there, and they could have, if they chose to,
20 have done an in-depth interview with that vet
21 about all of the conditions that vet has
22 observed and whether or not those conditions
23 were unsanitary.

24 And who would be in a better position to
25 tell these inspectors as to whether or not

1 that kennel was in a regular sanitary condition
2 than the medical professionals charged with
3 going into that shelter to care for those
4 animals. But they don't do that in-depth
5 interview with Dr. Josephson, who is there.

6 They find out there's another doctor,
7 Misha Levy, who also goes there regularly. They
8 called her to follow-up on one specific issue,
9 but never do an in-depth interview with Misha
10 Levy to try and find out what are the continuous
11 conditions for the care of these dogs at
12 Greyhound Friends.

13 And when I questioned Alan Borgal about
14 whether or not, after Louise told him that she
15 felt like he was being threatening, he said to
16 her some comments about, "Don't go up against
17 me, Louise, you won't win," and he emphatically
18 denied it -- absolutely emphatically denied it.

19 And contrast that with the testimony of
20 Linda Harrod, who's response when I asked her
21 that question was, "He didn't say that exactly.
22 What he said was, this is a fight you can't
23 win, Louise."

24 Why was he so evasive on that point in
25 his testimony if what he said was okay? Why

1 was he so evasive on it if he felt what he said
2 was appropriate?

3 He told us the kennel was overcrowded, he
4 said that he told Louise to fix structural issues.
5 We know Louise reached out right away, because
6 we heard from Kevin Simard about fixing the
7 structural issues.

8 We know that Louise e-mailed Lieutenant
9 Borgal about those structural issues the next
10 day to tell him she was working on it. Of course,
11 he says it got caught in his spam filter.

12 The work doesn't get done; it's December
13 14th; the holidays come, the New Year comes; it
14 doesn't get done over that time period.

15 And you heard Kevin Simard say he couldn't
16 start it right away. And on January 6th of 2017,
17 the inspectors return. And there's another
18 interesting split between Borgal and Harrod at
19 this point.

20 Linda Harrod, when she testified, admitted,
21 "When we came back on that next inspection, the
22 whole outside situation had been tightened up.
23 There were actually volunteers outside cleaning
24 when she got there."

25 Alan Borgal won't even give that in his

1 testimony. He says, "Well, it was clean, but
2 it wasn't fixed." Why won't he admit to even
3 the simplest fact that his co-inspectors easily
4 conceded in their testimony on the stand?

5 The repairs weren't done on the 6th, they
6 weren't done on the 13th, and then on the 20th,
7 inspectors moved to file a cease and desist.

8 And as I told you in my opening, Your
9 Honor, this is a critical moment in this case.
10 They have now determined that this is an unsanitary
11 environment, they need to cease the importation
12 of out-of-state dogs to this environment, and
13 it is not appropriate.

14 And in fact, a little while after that,
15 they get in touch with the Town, and they get
16 the Town kennel license suspended, and do all
17 of this and yet at the time that the cease
18 and desist is ordered, at the time the kennel
19 license is suspended, Louise has dogs in that
20 facility, and after all those things happen,
21 they don't take a single dog.

22 They do not seize a single dog from her
23 care. In fact, they leave those dogs, some of
24 them, in her care for twenty-seven more days.

25 If Louise Coleman was cruel to these animals,

1 how in good conscience could these inspectors
2 leave these animals in her care for twenty-seven
3 more days? The reason they didn't take the dogs
4 is because she wasn't cruel to the animals.

5 The only person who had the power and the
6 authority to charge Ms. Coleman was Lieutenant
7 Borgal, the man who can't admit he got an e-mail,
8 the man who can't admit the poop was cleaned up
9 outside, and the man who told Louise she was in
10 a fight she can't win. He's the only one that
11 charged her with animal cruelty.

12 And we talked to Linda Harrod about what
13 happened in the immediate aftermath of all this,
14 and Linda Harrod was working with Louise Coleman
15 to try to get her back open.

16 She told you she was sending compliance
17 plans, and that Louise adopted the compliance
18 plans and made it specific to Greyhound Friends
19 and sent it back to her for her approval.

20 And then Linda looked at it and thought,
21 oh, geez, I think you need to use a better cleaner,
22 and she sent it back to Louise, and Louise said,
23 "Yeah, we're going to use that better cleaner, I've
24 ordered it," and sent it back to her. And she was
25 helping her prepare to reopen.

1 And when I asked her, "Why would you help
2 someone who had been cruel to animals? Why
3 would you help that person get their shelter
4 reopened?" Her only answer was, she couldn't
5 answer that question.

6 I would suggest to the Court, the reason
7 she couldn't answer that question was because if
8 she answered it honestly, she would have to tell
9 the Court that Louise Coleman was not cruel
10 to animals.

11 You heard the testimony of Kathy Lundgren,
12 Judge. And Ms. Lundgren said a lot of things
13 about the organization, but I noticed that her
14 opinion of her own work was very high, and she
15 said that whenever she was in the shelter, if
16 she saw a dog that was in any situation where
17 there was an accident in the kennel or any
18 problem, she would clean it up immediately.

19 She told some outlandish stories about
20 forty bags of poop being cleaned out of the
21 back yard, and a story about dogs being left
22 in their own urine and feces.

23 Of course, she wrote an initial complaint
24 letter to DAR, and none of that was in the
25 initial complaint letter. She wrote out a

1 twelve-page timeline for the District Attorney's
2 Office prior to this case about these things,
3 and none of those accusations were in there.

4 It's only on September 22nd when she meets
5 with the DA's Office, to months ahead of trial,
6 that suddenly these new accusations come into
7 her story.

8 And you know, of course she maintains that
9 whenever she saw anything wrong in the kennel,
10 she took care of it right away.

11 The testimony from Ms. Lundgren is
12 disingenuous at best, Judge. She claims that
13 in the period of 2016, Greyhound Friends was
14 in terrible disarray; that it was unclean; that
15 it was unsanitary, and yet on cross-examination,
16 she admitted, in that very same time period,
17 she was leading groups of children; campers and
18 other children through the shelter to show them
19 a model of an animal rescue organization.

20 Would Ms. Lundgren lead those children into
21 that shelter if she believed that it was an
22 unsanitary environment, an unfit area for animals
23 to be kept? Of course not. Of course she wouldn't,
24 because it wasn't that way.

25 Kathy Lundgren was a woman who liked things

1 done her way. She complained that Louise wouldn't
2 let go of Little Joe and Blake, that there was
3 some adopters that she felt was appropriate, and
4 Louise didn't feel those adopters were appropriate,
5 and so, she wouldn't let them take them, and this
6 was some sign of Louise's inability to let go
7 of animals.

8 But what we learned in my cross-examination
9 is just a short while later, Louise actually found
10 these dogs a home that she felt was appropriate.
11 And Louise, herself, put the dogs in her car,
12 brought the dogs to the new adopters, and gave
13 them to them, and saw the home, and had this
14 nice time.

15 And Ms. Lundgren, she doesn't say, "I was
16 happy that Louise found those dogs a home. I was
17 happy those dogs were placed." She says, "She
18 needs control. I was supposed to do that, and
19 she wouldn't even let me do that." I think that
20 speaks for itself, Your Honor.

21 She claims Louise didn't do enough to
22 move dogs. Of course, there is an e-mail where
23 she writes to Louise, "It's so unfair what these
24 inspectors are saying to you. You've done so
25 much to try to move these dogs. You've put them

1 on Facebook, you've put them in the newspaper;"
2 listed all the things she tried to do, but today,
3 she claims none of that is true.

4 She had some problems with Louise; they didn't
5 get along, and in January of 2016, Ms. Lundgren
6 tries to oust Ms. Coleman by having a meeting of
7 the other Board members and telling them that
8 Ms. Coleman has Founder's Syndrome, and that
9 Founder's Syndrome means the founder of an
10 organization is no longer good at leading it,
11 and the only way to solve that is to get rid
12 of the founder. And the other Board members who
13 were there tell her, "We would never be a part
14 of that."

15 Now, they remained friends socially,
16 the Board members and Ms. Lundgren, but
17 Ms. Lundgren's relationship with Ms. Coleman
18 continues to deteriorate over time, and we heard
19 from Ms. Reichert that she would say terrible
20 things about Ms. Coleman.

21 And after their last final blowout, she
22 told Ms. Reichert that, "I'm sick and tired of
23 her, and she is going down." And she did take
24 her down. She got a cease and desist, she
25 got the kennel license revoked.

1 That wasn't enough for Kathy. Kathy
2 Lundgren needed to spike the football, so she
3 went on Fox 25, she gave an interview, making
4 all sorts of accusations against Greyhound
5 Friends and Ms. Coleman.

6 You heard the Greyhound Friends employees
7 and Board members describe the sense of betrayal
8 they felt as they watched Kathy Lundgren go on
9 TV and bad-mouth the organization they had all
10 given so much to together.

11 Going on TV and doing that was petty, it
12 was wrong, and it says everything about the
13 motivations behind Ms. Lundgren's testimony to
14 this Court.

15 We heard from Cornelia Godfrey. Cornelia
16 Godfrey is apparently the best cleaner to ever
17 work in a dog kennel. She told you that she is
18 on point. If she sees anything wrong, she takes
19 care of it.

20 Not only does she take care of what happens
21 on her shift, if she sees anything that was missed
22 by the prior shift, she is on point and she makes
23 sure to clean it up right away.

24 Might have actually been one of the defense's
25 best witnesses, because we know that when she

1 was working twice a week, that on her two shifts,
2 everything was clean. And she told us she
3 doesn't have personal knowledge of what happened
4 outside of those two shifts she worked per week.

5 Ms. Doyle is another witness who makes no
6 complaints about the conditions at Greyhound
7 Friends regarding feces or urine until she has
8 a September 22nd, 2017 meeting with the District
9 Attorney's Office, just like Ms. Lundgren does.
10 And then at that meeting, all of a sudden,
11 there are issues.

12 And incidentally, Ms. Doyle is affiliated
13 with Baypath, and it's interesting because I
14 think four of the Commonwealth's witnesses;
15 Godfrey, Doyle, Lundgren, Wakstein, all of
16 them affiliated with the Baypath Humane Society.

17 And there could be a lot of reasons why
18 the smaller shelter with the smaller outdoor
19 area might want to see the larger shelter with
20 the larger outdoor area fail and never reopen
21 in the same town.

22 But maybe the most interesting thing about
23 Baypath Society is who they choose to use as
24 their vet. You heard from Dr. Rodney Poling that
25 he works with the Baypath Humane Society. And the

1 Commonwealth went to great lengths to try to
2 discredit Dr. Poling as some sort of inadequate
3 vet because of the flu vaccine incident and an
4 iso violation at the kennel that he owns.

5 But isn't it interesting that all of these
6 Commonwealth witnesses work with the shelter that
7 also chooses to use Dr. Rodney Poling as their
8 veterinarian. The reason they use Dr. Rodney
9 Polling isn't because he's a bad vet; it's
10 because he's a good vet.

11 And his testimony was instructive, Judge.
12 He told you that he treated several dogs per
13 week, between 2015 and 2017, from Greyhound
14 Friends, dogs directly from the facility or
15 dogs who came immediately after adoption,
16 and he never once -- never once had a concern
17 about whether or not they were being kept in
18 unsanitary conditions.

19 He also put an end to this absurd notion
20 from the Commonwealth that because some of these
21 witnesses observed loose stools or bloody stools,
22 or a worm in a stool at Greyhound Friends, that
23 somehow this was a disease infested place
24 where diseases were rampantly being spread
25 between dogs.

1 Dr. Poling told you, these dogs come in
2 like this nearly. Nearly one-hundred percent
3 of them have some parasitic presence in their
4 body when they come into the state.

5 He told you about the Interstate Veterinary
6 Certificates, that those don't involve testing
7 in most cases, and that the iso process is only
8 forty-eight hours, and the examinations after
9 the isolation process don't account for that.

10 And that he treats dogs from shelter
11 situations all the time, and when he sees those
12 conditions present in rescue dogs, he needs to
13 treat them, and he does treat them, but he
14 doesn't for one second consider that to be a
15 sign that the dog was kept in an unsanitary
16 condition.

17 He also told you about the base of stone
18 that's in the back yard at Greyhound Friends,
19 where the dogs poop, and he explained that that
20 stone is actually a costly, difficult to
21 install; it's a processed, and that in installing
22 that particular stone is a sign that a kennel
23 is working hard to keep their environment
24 sanitary, because that stone base prevents poop
25 from entering into the -- it prevents the larvae

1 in the poop from transforming into something
2 that can infect dogs if it ever comes into
3 contact with another dog.

4 He said that that stone base makes it so
5 that it's very hard for those larvae to process
6 and eventually become infected.

7 I want to talk a little bit about the
8 isolation procedures for the dogs, because I
9 expect the Commonwealth will stand up in a few
10 minutes and go through these isolation procedures
11 in great lengths, and I think it's plain from
12 the testimony, even of the defendant's witnesses,
13 Judge, that there were points when the isolation
14 procedures were not followed at Greyhound Friends.

15 But I want to examine what we really know
16 about these isolation procedures. We heard from
17 Director Cahill that these procedures were put
18 in place in 2005. Prior to 2005, these procedures
19 didn't even exist.

20 Was every shelter in Massachusetts in 2004
21 an unsanitary cruel place to keep animals, if
22 this is a regulation that only entered in 2005?

23 We also know the isolation process in and
24 of itself is complete nonsense. Dr. Poling
25 testified it's a 48-hour isolation period, and

1 that the incubation for these diseases that
2 they're worried about are 14 to 21 days, and
3 that that 48-hour period does nothing.

4 We also know Greyhound Friends is far from
5 the only organization that's had difficulty with
6 isolation. We know Baypath, the shelter that
7 all those witnesses who testified are affiliated
8 with, in 2011, had an isolation violation that
9 was so serious that it apparently caused a
10 distemper outbreak. Dogs died. A dog was put
11 down, and nobody charged anyone from Baypath
12 Humane Society with animal cruelty.

13 Dr. Poling, who is a successful vet, who
14 has worked in the community in the Boston Metrowest
15 area for nearly forty-five years has a facility
16 that even once got cited for a violation of the
17 iso protocols, and that's a facility Baypath
18 chooses to use to treat their animals.

19 And I would suggest to the Court that if
20 a doctor, a vet who has got forty-five years
21 could have that problem, it's not unreasonable
22 that there might be a problem at Greyhound
23 Friends, and it certainly doesn't amount to
24 animal cruelty. Certainly, Dr. Poling was
25 never charged with animal cruelty.

1 And most importantly, I think, Judge, there
2 is not a single example, not a single dog that
3 the Commonwealth can point to that got any illness
4 or had the transmission of any virus or any
5 parasite as a result of anything that happened
6 in the isolation process.

7 In a case full of red herrings, the
8 so-called isolation violations may be the
9 biggest one.

10 I also expect you'll hear from the
11 Commonwealth at length about the horrendous
12 overcrowding at Greyhound Friends. But let's
13 remember the reality of the situation.

14 The testimony was that there was a license
15 for thirty-six dogs in that facility. There
16 were five inspections. Once, they were three
17 over the limit, they were two over the limit
18 three times, and they were one over the limit
19 once. One dog over, two dogs over, three
20 dogs over.

21 These are deminimis violations of the
22 licensing, Judge. They're nothing. They
23 certainly don't point to animal cruelty. And
24 they're really nothing when you take them in
25 the context of the testimony of Ann Doolin, who

1 told you that when she's trying to get a dog to
2 Louise, it's a situation where that dog is either
3 on death row, or there is a dog behind that dog
4 who needs that dog's spot in Kentucky to avoid
5 the other dog from being put on death row.

6 All these witnesses who work as inspectors,
7 they all say they care about animal welfare, and
8 I think they do, and I really get a sense that
9 they care about it in Massachusetts.

10 But they don't lift a finger to stop the
11 suffering that goes on outside of our state to
12 stop the needless deaths of the dogs elsewhere.

13 It's Louise Coleman and those like her
14 who make the tough decisions every day about
15 when they can save one more life; when there's
16 enough room on the lifeboat to save one more
17 drowning dog, and when she has to say she has
18 too many and she can't help, knowing that the dog
19 she can't take will likely die because she has
20 to make that decision about keeping her numbers
21 down.

22 When viewed through the prism of that
23 decision-making process, is one dog over, two
24 dogs over, even three dogs over cruel?
25 Remember, the Commonwealth has to prove that

1 she has unnecessarily failed to provide a
2 sanitary condition.

3 Isn't it necessary for Ms. Coleman to save
4 as many lives as she can? To save dogs to have
5 committed no crime, other than existing in a
6 state that's indifferent to their lives and
7 deaths?

8 All of this on its own is enough to
9 establish that the Commonwealth hasn't met their
10 burden, there is still more, Judge. There's the
11 testimony of all of the witnesses you heard from.

12 Most importantly, you heard from Katrina
13 Poplis, the only witness in this entire case
14 we've heard from who was in that shelter six
15 days a week, working thirty-six to forty-four
16 hours a week.

17 And she gave honest, straightforward
18 answers to straightforward questions. She told
19 the Commonwealth when they cross-examined her,
20 "Yeah, we got a little lax on the iso policy."
21 She didn't try to hide it, she didn't try to
22 say e-mails got caught in her spam filter.
23 She was straightforward about what happened.

24 And she told you that she cleaned every
25 run, that she never left a dog in feces or

1 urine, that the yards were cleaned every single
2 day at 10:00 a.m., and continued to be cleaned
3 throughout the afternoon.

4 And you heard from several other witnesses.
5 Stoddard Melhado, the retired school teacher
6 and Board member, Carl Hakkansson, the lawyer,
7 a professor, the Chairman of the Board of
8 Selectmen in Ashland.

9 Gail Reichert, the local business owner who
10 came every Wednesday, Eric Christensen, the school
11 teacher who felt like Greyhound Friends was a
12 wonderful place to bring his students and their
13 parents to come and see a place where dogs are
14 rescued.

15 And he wasn't bringing them early in
16 the time period in this case, Judge; he's
17 bringing them in November of 2016, December
18 of 2016, in January of 2017, when everyone
19 on the Commonwealth's witness list is claiming
20 this place was in complete disarray.

21 We've got a teacher saying, "I'm proud
22 to bring my students to this place as an
23 example of an animal rescue." Would all these
24 decent people, all these intelligent people
25 who hold positions of responsibility and

1 distinction in society, would they all be going
2 in every day, every week to a kennel to volunteer
3 or work and ignore awful, terrible conditions that
4 the Commonwealth claims were present?

5 Or isn't it more likely the opposite is
6 true, Judge; that what they say they saw is what
7 was happening. Greyhound Friends was a clean
8 place where the dogs sometimes had accidents,
9 but those accidents got cleaned up; where the
10 drains sometimes got clogged, but they always
11 got fixed.

12 A place where the people who worked and
13 volunteered every day cared deeply about the
14 dogs they worked with, and did their level best
15 to make sure that shelter was a safe, clean,
16 and loving environment for the animals who
17 were there; a place where dogs slated for
18 execution found a safe haven until they could
19 be delivered to a better situation and a
20 better life.

21 At its core, this case is the criminalization
22 of regulatory compliance. It's about taking a
23 list of best practices and then making every
24 departure from that list felony criminal conduct.

25 This case represents defining down the

1 word animal cruelty in a way that is most unusual.
2 There is no dogs covered in feces, there is no
3 open sores, there is no matted fur, there is no
4 dogs that haven't seen a vet or are desperate for
5 food or water.

6 There's just Louise Coleman, a woman with
7 no material riches, no property, a woman who has
8 dedicated her entire life to building an
9 organization that will save and rescue dogs.
10 All she has is her reputation and her legacy,
11 and she has built that organization to save
12 over 9,000 dogs.

13 Did this woman who sacrificed so much to
14 build this organization, to make Greyhound Friends
15 what it was, did she suddenly turn around and
16 become cruel and mistreat animals? The answer
17 to that question, Your Honor, is an emphatic,
18 loud no. And we ask Your Honor to find her
19 not guilty.

20 THE COURT: Okay, thank you.

21 Attorney Safran?

22 MS. SAFRAN: Thank you, Your Honor.

23
24 BY MS. SAFRAN:

25 This case is about what the defendant failed