

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

June 24, 2009

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 08-60247  
\_\_\_\_\_

ROBERT BROCK, an Individual; MICHELLE BROCK, an Individual,

Petitioners,

versus

UNITED STATES DEPARTMENT OF AGRICULTURE,

Respondent.

\_\_\_\_\_  
Petition for Review of  
an Order of the Secretary,  
United States Department of Agriculture  
Animal Welfare Act Docket No. 04-0015  
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Before JOLLY, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

A judicial officer of the United States Department of Agriculture determined that the petitioners, Robert and Michelle Brock, had violated the Animal Welfare Act by acting as dealers of animals without being licensed to do so. The Brocks petition for review.

We have examined all of the submissions, including post-submission letter briefs that the attorneys were permitted to file.<sup>1</sup> We also have consulted pertinent parts of the record and the applicable law.

The decision of the judicial officer is sound. There is substantial evidence on all the elements needed for a finding of violation, including, *inter alia*, that the Brocks took part in the transfer of the subject animals; that the transfer was for compensation or profit; and that the Brocks were “dealers.” The claim that the transactions had no effect on interstate commerce is without merit even if it was not waived.

Because there is no error of fact or law, the petition for review is DENIED.

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<sup>1</sup> Despite his diligent efforts to make alternate travel arrangements after experiencing airline and weather delays that were well beyond his control, petitioners’ counsel was unable to appear for oral argument. We permitted both sides to submit letter briefs after the scheduled argument date, particularly to allow the absent attorney to supplement his other submissions. Especially given the steep standard of review, this is not a close case, and the petitioners were not prejudiced by the inability of their counsel to present oral argument.