ican Kennel Club does not recognize the breed and publishes no conformation standards on the pit bull dog. In the pretrial hearings in the case at bar, it was established that the American Kennel Club does not register pit bulls because of their unsavory tendencies.[4] Therefore, the pit bull is not a recognized breed for the very reason that it must be regulated: it poses a grave and inordinate danger to human health and safety. It would be wildly ironic to allow pit bulls to escape regulation on the basis of a circumstance which arises directly from the need for regulation.

Finally, many of the dogs which possess the physical traits of dogs commonly known as pit bulls and which behave in the way that pit bulls are commonly known to behave are mixed breeds. If the Ohio statute had restricted its scope to recognized pure breeds such as the American Staffordshire Terrier, then all of the other dogs would have escaped regulation. By focusing on dogs able and likely to cause harm, rather than on the bloodlines established by private kennel clubs, the Ohio Legislature created a statute which is better calculated to protect the public from danger.

In sum, we reject the appellee's contention that the phrase "commonly known as a pit bull dog" is so devoid of meaning that R.C. 955.11(A)(4)(a)(iii) is unconstitutionally void for vagueness. Pit bull dogs possess unique and readily identifiable physical and behavioral traits which are capable of recognition both by dog owners of ordinary intelligence and by enforcement personnel. Consistent and detailed descriptions of the pit bull dog may be found in canine guidebooks, general reference books, state statutes and local ordinances, and state and federal case law dealing with pit bull legislation. By reference to these sources, a dog owner of ordinary intelligence can determine if he does in fact own a dog commonly known as a pit bull dog within the meaning of R.C. 955.11(A)(4)(a)(iii). Similarly, by reference to these sources, dog wardens, police officers, judges, and juries can enforce the statute fairly and even-handedly. Consequently, we find that R.C. 955.11(A)(4)(a)(iii) is not unconstitutionally void for vagueness.

The judgment of the court of appeals is reversed and this case is remanded to the trial court for further proceedings consistent with this opinion.

Judgment reversed and cause remanded.

MOYER, C.J., and SWEENEY, HOLMES, DOUGLAS, WRIGHT and HERBERT R. BROWN, JJ., concur.

57 Ohio St.3d 176

176 **The STATE of Ohio, Appellant,**

v.

FERGUSON, Appellee.

Nos. 90-514, 90-286.

Supreme Court of Ohio.

Submitted Dec. 11, 1990.

Decided Feb. 13, 1991.

Defendant was convicted by jury of failure to confine dangerous or vicious dog before the Court of Common Pleas of Franklin County, and he appealed. The

4. Robert W. High, the aforementioned expert from the American Kennel Club, testified as follows:

"Defense counsel: Is there a registered—or a recognized breed of dog known as a pit bull dog?

"Mr. High: * * * [T]he AKC does not recognize this breed.

"Defense counsel: Okay. Why doesn't the AKC register that breed?

"Mr. High: Well, dating back even 25 years, there have been some very unsavory connotations relative to this breed, such as breeding the dogs for dog fighting, being a naturally pugnacious animal * * *. And to further magnify—This is dangerous in the hands of people that are not experienced in handling dogs.

"So I think the AKC felt they would be better off to wash their hands of the whole situation and not allow registry. * * *"

Court of Appeals for Franklin County reversed defendant's conviction. On certification, the Supreme Court, Alice Robie Resnick, J., held that statute which requires that dog "commonly known as a pit bulldog" be confined or restrained in particular fashion is not unconstitutionally void for vagueness.

Reversed and remanded.

1. Constitutional Law ⇐42.2(1)

Individual who engages in conduct which is clearly proscribed by statute cannot complain of vagueness of law as applied to others. U.S.C.A. Const.Amend. 14.

2. Animals ⇐4

Statute which requires that dog "commonly known as a pit bulldog" be confined or restrained in particular fashion is not unconstitutionally void for vagueness; phrase "commonly known as a pit bulldog" refers to distinct set of physical and behavioral traits. R.C. § 955.11(A)(4)(a)(iii); Rules App.Proc., Rule 12(A); U.S.C.A. Const.Amends. 5, 14.

On September 27, 1987, two dogs owned by Kenneth I. Ferguson, appellee herein, attacked and killed two-year-old Shannon N. Tucker. Subsequently, the Franklin County Grand Jury returned a two-count indictment charging appellee with one count of failure to confine a vicious dog and one count of involuntary manslaughter. Prior to the commencement of trial, appellee unsuccessfully moved to dismiss both counts on the ground that the statutory provisions underlying his charges, R.C. 955.11, 955.22 and 955.99, were unconstitutionally void for vagueness.

Upon a jury trial on the merits, appellee was found guilty of count one, failure to confine a dangerous or vicious dog in violation of R.C. 955.22, but was acquitted on the involuntary manslaughter count. Appellee was sentenced to a term of one and one-half to five years' imprisonment together with a $1,000 fine. The term of incarceration was suspended, and the appellee was placed on probation for two years.

Appellee appealed his conviction to the Court of Appeals for Franklin County. Relying on its decision in *State v. Anderson* (Oct. 12, 1989), Nos. 88AP–711 and 88AP–712, unreported, 1989 WL 119949, the appellate court declared R.C. 955.11(A)(4)(a)(iii) void for vagueness and reversed appellee's conviction. Finding its decision to be in conflict with the decision of the Court of Appeals for Clermont County in *State v. Robinson* (1989), 44 Ohio App.3d 128, 541 N.E.2d 1092, the appellate court certified the record of the case to this court for review and final determination.

Michael Miller, Pros. Atty., and Alan C. Travis, Columbus, for appellant.

Thomas M. Tyack, Columbus, for appellee.

William F. Schmitz, Cleveland, and Abraham Cantor, Painesville, urging affirmance for amicus curiae, Western Reserve Kennel Club.

ALICE ROBIE RESNICK, Justice.

[1] Preliminarily, we must resolve the question of appellee's standing to challenge the statute for vagueness. It is well-established that an individual who engages in conduct which is clearly proscribed by a statute cannot complain of the vagueness of a law as applied to others. *Hoffman Estates v. The Flipside, Hoffman Estates, Inc.* (1982), 455 U.S. 489, 495, 102 S.Ct. 1186, 1191, 71 L.Ed.2d 362; *Broadrick v. Oklahoma* (1973), 413 U.S. 601, 610, 93 S.Ct. 2908, 2914, 37 L.Ed.2d 830 (a person to whom a statute may constitutionally be applied will not be heard to challenge the statute on the ground that it may conceivably be applied unconstitutionally to others, in other situations not before the court). It is arguable that the appellee engaged in conduct that is clearly proscribed by [1177] the sections of the Revised Code at issue in this case and thus lacks standing to challenge those provisions.

Appellee registered his dog as an "American Pit Bull" with the Franklin County Bureau of Auditor, Dog License Division.

At trial, he consistently referred to his dog as an American Pit Bull Terrier and discussed the characteristics of the breed which he admired. In effect, he admitted that he owned a pit bull dog. Appellee was then convicted of violating R.C. 955.22, which incorporates R.C. 955.11(A)(4)(a)(iii) by reference and requires that a dog "commonly known as a pit bull dog" be confined or restrained in a particular fashion. Now, appellee claims that his conviction should be overturned since it is not clear what constitutes a dog commonly known as a pit bull dog.

On the one hand, appellee's admission seems sufficient for us to conclude that R.C. 955.11(A)(4)(a)(iii) is not unconstitutionally vague as applied to him. However, while appellee admitted owning an American Pit Bull Terrier, he did not admit owning a dog "commonly known as a pit bull dog." Under a literal reading of the statute, it could be argued that appellee did not admit that he was covered by its terms. Thus, we will assume, *arguendo*, that he still has standing. See, *e.g.*, *State v. Peters* (Fla.App.1988), 534 So.2d 760, 766, at fn. 10, where the court reached the same conclusion.

[2] Appellee's conviction may not be overturned on the ground that the statutory scheme pursuant to which he was convicted violates the Due Process Clauses of the state and federal Constitutions. In *State v. Anderson* (1991), 57 Ohio St.3d 168, 566 N.E.2d 1224, decided this day, we held that R.C. 955.11(A)(4)(a)(iii) is not unconstitutionally void for vagueness. Specifically, we determined that the phrase "commonly known as a pit bull dog" refers to a distinct set of physical and behavioral traits sufficient not only to place an ordinary dog owner on notice as to whether he is covered by the statute, but also to avert the danger of arbitrary and discriminatory enforcement of the statute. Reviewing the case at bar in light of this holding, we find that R.C. 955.11(A)(4)(a)(iii) may lawfully be applied to the appellee and that the appellate court erred in reversing the appellee's conviction on the ground that the statute is unconstitutionally void for vagueness.

Since the appellate court reversed the appellee's conviction on the basis of his first assignment of error, that R.C. 955.11(A)(4)(a)(iii) is unconstitutionally void for vagueness, the court did not address appellee's subsequent assignments of error. Accordingly, we reverse the judgment of the appellate court overturning appellee's conviction and remand the cause to that court for consideration of the appellee's second, third, and fourth assignments of error. See App.R. 12(A).

Judgment reversed and cause remanded.

MOYER, C.J., and SWEENEY, HOLMES, DOUGLAS, WRIGHT and HERBERT R. BROWN, JJ., concur.

57 Ohio St.3d 611

[611] **CRISS et al., Appellants,**

v.

SPRINGFIELD TOWNSHIP et al., Appellees.

No. 89–1528.

Supreme Court of Ohio.

Submitted Jan. 8, 1991.

Decided Feb. 13, 1991.

Appeal from the Court of Appeals for Summit County, Nos. 13262 and 13271.

Grisi & Riegler and Charles E. Grisi, for appellants.

Nukes & Perantinides Co., L.P.A., Paul G. Perantinides, Elizabeth B. Manning and Samuel G. Casolari, Jr., for appellees Springfield Tp. Police Dept., Carl Frank Blasdel and Daniel Lance.

John O. McIntyre, Jr. and Linda Tucci Teodosio, for appellee Myra Criss.