

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, August 7, 2009
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairman Robert D. Hernbrode
Vice Chair Jennifer L. Martin
Commissioner Robert R. Woodhouse
Commissioner Norman W. Freeman
Commissioner Jack F. Husted

Director Larry D. Voyles
Deputy Director Gary R. Hovatter
Deputy Director Bob Broscheid
Assistant Attorney General Jim Odenkirk

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §15-714, §17-238, §17-314, §17-340, §17-362 and/or §17-363 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. All of these exhibits may be considered by the Commission in order to make a final determination. Each of the following individuals were legally noticed for this hearing.

<u>Name</u>	<u>Conviction</u>
Herrell, Mark	Count A: Possess unlawfully taken mule deer Count B: Take deer in wrong unit
Evans, Richard-0031	Count B: Take deer in excess of bag limit
Evans, Richard-0032	Count A: Take deer without a valid tag
Evans, Richard-0071	Count A: Take deer during the closed season
Evans, Richard-0087	Count 4: Take elk without a valid permit Count 5: Knowingly take elk during the closed season
Evans, Richard-0090	Count 10: Take bear without valid permit Count 11: Knowingly take bear in the closed season

DAMAGES OR TO BRING CIVIL ACTION AGAINST MARK HERRELL TO COLLECT IN THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) 4 X 4 MULE DEER BUCK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Richard Evans

Chairman Hernbrode requested that all the cases be one matter and the Commission would deal with them all at once.

Assistant Attorney General Odenkirk advised the Commission that this individual has more than three prior convictions of unlawful take and based upon that he has the possibility of facing a permanent revocation of his license privileges. Instead of addressing each one separately with each successive decision increasing the time, the Commission has the option of taking one action of whatever revocation period they decide up to permanent revocation.

Motion: Woodhouse moved and Martin seconded THAT THE COMMISSION VOTE TO CONSOLIDATE ALL THE REVOCATION CASES CONCERNING RICHARD EVANS INTO ONE ACTION.

Vote: Unanimous

Mr. Elms stated that Mr. Evans had not seen the revised Department recommendation previously but was provided a copy of the revised recommendation here today.

Docket number 2009 – 0031

Evans was found guilty by the Clifton Justice Court for: Count A: Take Deer without a valid license; Count B: Take Deer in excess of bag limit; Count C: Take Deer in closed season; Count D: Take Deer without a valid tag; Count E: Take Deer in excess of bag limit; Count F: Take Deer and allow to waste; and sentenced Count B per plea agreement: Fined \$650.00.

Case Officer Fong was present via video teleconference from the Region II office.

Docket number 2009-0032

Evans was found guilty by the Ferdonia Justice Court for: Count A: take Mule Deer without a valid tag; Count B: Take Deer in excess of bag limit; Count C: Posses unlawfully taken Deer; and sentenced to Count A: Fined 747.00.

Case Officer Dinkel was present.

Docket number 2009-71

Evans was found guilty by the Round Valley Justice Court for: Count A: Take Deer during closed season; Count B: Posses unlawfully taken Deer; and sentenced to Count A: Fined 580.40

Docket Number 2009-0087

Evans was found guilty by the Navajo County Superior Court for: Count 4: Take Elk without a valid permit; Count 5: Knowingly take Elk during closed season; and sentenced to Count 4 to 11: 10,000.00.

Docket number 2009-0090

Evans was found guilty by the Navajo County Superior Court for: Count 10: Take Bear without a valid permit: 11: Knowingly take Bear in a closed season; and sentenced to 10,000.00 same from as above Docket.

Case Officers Wagner and Dinquel are present.

Evans was present and addressed the Commission explaining his circumstances and how this situation came about.

Motion: Woodhouse moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF RICHARD E. EVANS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED PERMANATELY; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST RICHARD E. EVANS TO COLLECT IN THE AMOUNT OF \$37,500.00 FOR THE LOSS OF TWO (2) 4 X 4 TROPHY MULE DEER BUCK DOCKET NUMBER 09-0031 \$16,000.00; ONE (1) 3 X 3 MULE DEER BUCK AND ONE (1) 6 X 6 TROPHY MULE DEER BUCK DOCKET NUMBER 09-0032 \$9,500.00; ONE (1) 3 X 4 TROPHY MULE DEER BUCK DOCKET NUMBER 09-0071 \$8,000.00; ONE (1) ANTLERLESS ELK DOCKET NUMBER 09-0087 \$2,500.00; ONE (1) BEAR DOCKET NUMBER 09-0090 \$1,500.00; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Cameron Gustafson

Gustafson was found guilty by the Prescott Justice Court for: Count A: Obtain resident license by fraud; Count B: Obtain resident tag or permit by fraud; and sentenced Counts A: Fined \$480.00.

Case Officer Tucker was not present.

Gustafson was present and addressed the Commission explaining his circumstances and how this situation came about.

Motion: Husted moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CAMERON GUSTAFSON TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; I FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye – Hernbrode, Woodhouse, Freeman, Husted
Nay – Martin
Passed 4 to 1

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Giovanni Martinez

Martinez was found guilty by the Snowflake Justice Court for: Count A: Take Deer decoy without a valid tag; Count B: Take Deer decoy by unlawful method; and sentenced Counts A, B: Fined \$170.00.

Martinez was not present.

Motion: Martin moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF GIOVANNI MARTINEZ TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; I FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Delfino Santana

Santana was found guilty by the Parker Justice Court for: Count A: Obtain license by fraud; and sentenced Count A: Fined \$417.00.

Santana was not present.

Motion: Freeman moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DELFINO SANTANA TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT’S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; I FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye – Martin, Freeman, Husted
Nay – Hernbrode, Woodhouse
Passed 3 to 2

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These hearings concluded at 2:58 p.m.

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