

Proceedings of the Arizona Game and Fish  
 Commission License Revocation and Civil  
 Assessment Hearings  
 Time Certain – 2:00 p.m.  
 Friday, December 4, 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 Bob Broscheid  
 Assistant Attorney General Jim Odenkirk  
 Assistant Attorney General Shelley Cutts

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>Docket #</u>	<u>Conviction</u>
Carl J. Winski, III	2009-0082	Count A: Misuse of Firearms While Hunting
Carl J. Winski, III	2009-0083	Count A: Hunt in Wrong Unit
Jose R. Galicia	2009-0100	Count A: Take Wildlife in Closed Season (Doves) Count B: Shoot Across Roadway
Jose A. Mayorga	2009-0101	Count A: Take Wildlife in Closed Season (Doves)
Edgardo A. Magana	2009-0102	Count A: LaPaz Cty Sheriff: Take Wildlife in Closed Season (Doves) Count A: Game and Fish: Take Wildlife Without License (Doves) Count B: Take Wildlife by Unlawful Method (Doves)
Charles C. Snow	2009-0103	Count A: Exceed Bag Limit (Doves)

James C. Snow            2009-0104    Count A:    Exceed Bag Limit (Doves)

Robert L. Girard        2009-0105    Count A:    Obtain License by Misrepresentation

Roll call was taken and the following were present: Carl J. Winski III, Michael Reeves – council for Mr. Winski, and Richard Mychajlonka.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment.

The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above with the exception of Ivan Valdez. Mr. Elms requested and was granted permission from the Commission to remove Ivan Valdez from the list of individuals to be considered for revocation.

**Motion:** Woodhouse moved and Husted seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

**Vote:** Unanimous

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Carl J. Winski, III

Commissioner Freeman recused himself from this hearing due to past involvement with Mr. Reeves.

Winski was found guilty by the Flagstaff Justice Court for: Count A: Misuse of firearms while hunting. The following counts were dismissed through a plea agreement: Count B: Take elk without a valid license, Count C: Take elk without a valid permit, Count D: Harass wildlife with a motor vehicle. Fined \$397.00.

Case Officer Fabian was present.

Winski was present and was represented by his Council, Mr. Michael Reeves. Mr. Reeves addressed the Commission and said it wasn't determined in this accident whose gun was discharged and they were never able to determine how the gun was actually fired. Mr. Winski indicated that there was not a Game and Fish officer on site but only a sheriff's deputy.

Mr. Richard Mychajlonka spoke and said that he did not doubt that Mr. Winski's rifle shot him and his client has maintained all along that this was a horrible accident. He has taken partial responsibility for it and there were conflicting statements as to what caused that particular rifle to go off on that date.

**Motion:** Woodhouse moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CARL JOSEPH WINSKI, III 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; 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  
4 to 0  
Freeman recused

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Carl J. Winski, III

Winski was found guilty on April 9, 2009 by the Flagstaff Justice Court for: Count A: Hunting in the wrong unit. Fined \$423.00.

Case Officer Fabian was present.

Winski was present and was represented by his Council, Mr. Michael Reeves. During the investigation, Officer Fabian asked Mr. Winski and his son, Carl Winski, IV, why they were in the eastern portion of Unit 5A when they had a tag for Unit 5B. Mr. Reeves addressed the Commission and said that his client was in the unit to help a friend with a downed elk and then changed his story that he was hunting coyotes. After questioning the son, Officer Fabian cited Carl Winski, IV based on the his statement about scouting for elk in this unit the day before and now looking for elk this morning. After Officer Fabian questioned a nearby person at a camp who stated he saw the blue suburban in this area before first light, Officer Fabian dismissed the citation against the son and cited Carl Winski III for taking his son into the wrong unit.

**Motion:** Martin moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **CARL JOSEPH WINSKI III TO HUNT, FISH, AND TRAP** IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF **FIVE (5) YEARS TO RUN CONSECUTIVE TO HIS PRIOR REVOCATION**; 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; 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  
4 to 0  
Freeman recused

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The following 3 cases are related.

Jose R. Galicia

Galicia was found guilty by the Quartzite Justice Court for: Count A: Take wildlife in closed season (Doves); Count B: Shoot across roadway; Count C: Drinking while riding passenger with an open container of alcohol. Fined on August 4, 2009 for \$170 for Count A, \$318 for Count B, and \$121 for Count C.

**Motion:** Martin moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOSE R. GALICIA 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; 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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Jose A. Mayorga

Mayorga was found guilty by the Quartzite Justice Court for: Count A: Take wildlife in closed season (Doves); Count C: Drinking while riding passenger with an open container of alcohol; and sentenced Counts A, C: Fined on August 4, 2009 for \$170 for Count A, and \$121 for Count C.

**Motion:** Woodhouse moved and Martin seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOSE A. MAYORGA 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; 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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Edgardo A. Magana

Magana found guilty by the Quartzite Justice Court for: Count A: LaPaz Cty Sheriff: Take wildlife in closed season (Doves); Arizona Game and Fish charges Count A: Take wildlife without license (Doves); Count B: Take wildlife by unlawful method (Doves) Sentenced LaPaz Cty Count A for \$75.00; Game and Fish Count A: for \$121.00; Count B \$170.00. Date of conviction was September 2, 2009.

Magana was not present.

**Motion:** Freeman moved and Husted seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES EDGARDO A. MAGANA 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; 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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The following two cases are related.

Charles C. Snow

Snow was found guilty by Yuma County Justice Court for: Count A: Exceed bag limit (Doves); Fined \$1,353.20 on September 23, 2009.

Snow was not present, but provided the Commission with a written statement (Included in the record).

**Motion:** Husted moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CHARLES C. SNOW 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; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST **CHARLES C. SNOW** TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF **\$650.00** FOR THE LOSS OF **THIRTEEN (13) DOVES;** 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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James C. Snow

Snow was found guilty by the Yuma County Justice Court for: Count A: Exceed bag limit (Doves); Fined \$1,353.20 on September 23, 2009.

Snow was not present, but provided the Commission with a written statement (Included in the record).

**Motion:** Martin moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **JAMES C. SNOW** 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; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST **JAMES C. SNOW** TO COLLECT CIVIL DAMAGES IN THE AMOUNT OF **\$650.00** FOR THE LOSS OF **THIRTEEN (13) DOVES;** 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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Robert L. Girard

The Department had technical difficulties in trying to reach Mr. Girard.

**Motion:** Martin moved and Husted seconded THAT THIS LICENSE REVOCATION HEARING BE CONTINUED UNTIL NEXT MONTH.

**Vote:** Unanimous

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These hearings concluded at 3:14 p.m.

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