

Proceedings of the Arizona Game and Fish
Commission License Revocation & Civil
Assessment Hearings
Friday, September 5, 2003 – 1:30 p.m.
Yuma Regional Office, 9140 E. 28 St.
Yuma, Arizona

PRESENT: (Commission)

(Director's Staff)

Chair pro tem Sue Chilton
Commissioner W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Asst. A.G. Jay Adkins
Asst. A.G. Jim Odenkirk

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

Presenter: Leonard Ordway, Law Enforcement Branch Chief

Roll call was taken. The following persons were present at today's meeting: Frank Hollingsworth, Jack Tremain and Chad Smith.

Motion: Gilstrap moved and Melton seconded THAT THE COMMISSION TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

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Frank Allen Hollingsworth

Hollingsworth was charged with A) taking wildlife without a valid license/tag; B) shooting from a maintained road and C) shooting from a vehicle. He was found guilty per plea agreement in Williams Justice Court of Counts A and C; Count B was dismissed. He was fined \$350 for Count A and \$250 for Count C.

Hollingsworth was present at today's meeting with Bill Flick, legal counsel. Mr. Flick stated Hollingsworth pled guilty of unlawful taking wildlife in court even though it was a decoy. Hollingsworth did not have a deer tag. Hollingsworth admitted he made a mistake.

Motion: Gilstrap moved and Melton seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF FRANK ALLEN HOLLINGSWORTH TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FOUR YEARS; THAT THE LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND 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 LICENSES TO HUNT IN THIS STATE; FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Jack L. Tremain and Chad L. Smith

Tremain was charged with A) taking wildlife (antelope) from a motor vehicle; B) shooting from a roadway and C) possessing unlawfully taken wildlife (antelope). He was found guilty in Prescott Justice Court of Counts A and C. He was fined \$215 for Count A and \$215 for Count C.

Smith was found guilty in Prescott Justice Court of A) taking wildlife (antelope) from a motor vehicle and B) possessing unlawfully taken wildlife (antelope). He was fined \$215 for Count A and \$215 for Count B.

Tremain and Smith were present at today's meeting. Also present at today's meeting was Officer Scott Poppenberger. Mr. Ordway noted the Commission should have received nine character reference letters for Smith, as well as a letter from Smith himself and landowner Tom Perkins. There was an appeal filed for Smith to try to get the court's decision overturned; the conviction was upheld.

Smith described what happened. He stated the vehicle was never used to advantage to close the distance or pursue any antelope. He stated he had permission from Perkins to hunt on his ranch. He stated there was a misunderstanding in this case. Guiding was Smith's only source of income and revoking his guide's license would place a financial burden on his family. Smith described for the Commission the course of events and pertinent locations in the case on a map.

Mr. Ordway noted Mr. Perkins stated in his letter that permission would have been given but at the particular time, Smith and Tremain were not on his list.

Mr. Ordway further noted that the court of law agreed with the state's position and determined the conviction at this point. Commissioner Golightly noted that in Perkins' letter, verbal permission was given to scout only. He would have given permission to hunt had the hunter asked to be on the property.

Tremain noted he was employed in Harrison (Indiana) as Assistant Chief of Police. He has been with the Police Department for 21 years. At no time, did he and Smith drive fast, drive toward or leave the roadway with the vehicle to pursue or chase the antelope. At no time was the muzzleloader loaded while in the vehicle. The muzzleloader was only loaded after stopping the vehicle. He felt there were numerous discrepancies in Officer Poppenberger's report.

Commissioner Melton noted the difficulty in this case was due to the definition of a "road."

Officer Poppenberger gave his account of what happened. He noted there were no tracks leaving the roadway. He noted what was important were details concerning some of the time frames involved. The area was small surrounded by a road in a horseshoe shape. The vehicle was used to rally the animal around the horseshoe-shaped area. They pursued the animal after having shot at it. He witnessed these individuals doing a clear, cut and dry, obvious and deliberate act on this specific animal.

Motion: Gilstrap moved and Melton seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF JACK L. TREMAIN TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES FROM OR TO BRING CIVIL ACTION AGAINST JACK L. TREMAIN TO COLLECT THE AMOUNT OF \$2450 FOR HIS PART IN THE LOSS OF ONE (1) TROPHY BUCK ANTELOPE. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Chair pro tem Chilton noted this was a nebulous case and she was uncomfortable with going with the maximum revocation. So many people perceived what happened differently.

Vote: Gilstrap, Melton and Golightly – Aye
Chair pro tem voted Nay
Motion carried

Motion: Gilstrap moved and Melton seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF CHAD L. SMITH TO HUNT, FISH, TRAP AND GUIDE IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES FROM OR TO BRING CIVIL ACTION AGAINST CHAD L. SMITH TO COLLECT THE AMOUNT OF \$2450.00 FOR HIS PART IN THE LOSS OF ONE (1) TROPHY BUCK ANTELOPE. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT,

CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Gilstrap, Melton and Golightly – Aye
Chair pro tem voted Nay
Motion carried

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Ray E. Robinson

Robinson was found guilty per plea agreement in Maricopa County Superior Court of A) unlawful possession/sale of wildlife (reptiles) (Class 6 felony) and B) unlawful possession/sale of wildlife (reptiles) (Class 6 felony). He was sentenced to 12 months probation beginning January 23, 2003, conditions to perform 40 hours of community service at a minimum of 10 hours per month; reimbursement of \$200 to the Wildlife Theft Prevention Fund, payable at \$50 per month.

Robinson was not present at today’s meeting.

Motion: Melton moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF RAY E. ROBINSON TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND 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 LICENSES TO HUNT IN THIS STATE; FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Zenaido Cervantes Alvarado

Alvarado was found guilty in North Mesa Justice Court of A) taking wildlife (javelina) without a license; B) possessing unlawfully taken wildlife (javelina) and C) taking wildlife (javelina) with an unlawful method (.22 rimfire rifle). He was fined \$133 for Count A and \$300 for Count C. The fine was suspended for Count B.

Alvarado was not present at today’s meeting.

Motion: Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF ZENAIDO CERVANTES ALVARADO TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THE HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE

DIRECTOR; THE HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT 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 TO COLLECT AGAINST MR. ALVARADO THE AMOUNT OF \$445.30 FOR THE LOSS OF ONE (1) JAVELINA. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Brenden Kirk Copeland

Copeland was found in Moccasin Justice Court of A) taking wildlife (turkey) without a valid permit and B) possessing/transporting unlawfully taken wildlife (turkey). He was fined \$1670, suspended \$1170; plus, \$20 surcharge; \$520 net; and 24 months probation.

Copeland was not present at today’s meeting.

Motion: Melton moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF BRENDEN KIRK COPELAND TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE CURRENT LICENSES BE SUSPENDED AS OF THE DATE OF THE HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THE HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT 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 BRENDEN KIRK COPELAND TO COLLECT THE AMOUNT OF \$445.30 FOR THE LOSS OF ONE (1) TURKEY. FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Richard Silva, Sr.

Silva was found per plea agreement in Green Valley Justice Court of A) taking wildlife without a valid license and B) obtaining license and tag by fraud. He was fined \$500 for Counts A and B, suspended sentence after completion of 24 months probation.

Silva was not present at today’s meeting.

Motion: Golightly moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF RICHARD SILVA, SR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A

PERIOD OF FIVE YEARS; THAT THE LICENSES BE SUSPENDED AS OF THE DATE OF THIS HEARING AND 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 LICENSES TO HUNT IN THIS STATE; FURTHER, THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSION OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Wesley Dewayne Sherwood

Sherwood was charged with A) obtaining 2000 resident license by fraud; B) obtaining 2000 resident deer permit by fraud; C) obtaining 2001 resident license by fraud; D) obtaining 2001 resident deer permit by fraud; E) taking big game without valid license; F) possessing/transporting unlawfully taken big game; G) obtaining 2002 resident license by fraud; H) obtaining 2002 resident deer permit by fraud and I) obtaining 2002 resident elk permit by fraud. He was found guilty in Sierra Vista Justice Court of Counts A, C and G and was fined \$1500, plus \$891.50 in restitution to the Department. The other charges were dismissed per plea agreement.

Sherwood was not present at today's meeting. Mr. Ordway noted the Department could prove that only one deer was taken illegally. Sherwood was a resident of Texas; however, Mr. Ordway noted Texas was not a member of the Wildlife Violator Compact.

Motion: Melton moved and Gilstrap seconded THAT THE LICENSES AND/OR LICENSE PRIVILEGES OF WESLEY DEWAYNE SHERWOOD TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER 0 86 Mr. Ordway notec Tc 030ge9CV9t499971OVaM;T THE LHE CURR(NIE)-TENSES A