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Proceedings of the Arizona Game and Fish Commission License Revocation and Civil Assessment Hearings
Friday, September 17, 2004 – 1:30 p.m.
Manor House Conference Center
415 East Highway 70
Safford, Arizona 85546

PRESENT: - On Site (Commission)

Chairman Sue Chilton
Commissioner Joe Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean

(Director's Staff)

Director Duane L. Shroufe
Deputy Director Steve K. Ferrell
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Shelley Cutts

PRESENT – Phone (Commission)

Commissioner W. Hays Gilstrap

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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 L. Ordway, Law Enforcement Branch Chief

The Department would like the record to show that each of these cases have been reviewed and it has been determined that all cases meet 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 record should reflect that the Commission and the respondents have been 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 individual has been legally noticed for today's hearing.

Name	Conviction
Teele, Ryan C.	Count A: Take wildlife from a closed area.
Grove, Lauren L.	Count A: Take wildlife from a closed area.
Frost, Wesley H.	Count B: Take wildlife while revoked.
Hinshaw, Gary S.	Count A: Sell unlawfully taken wildlife (Gila monster).
Mobley, Paul A.	Northwest Phoenix Justice Court Count C: Obtain 2003 deer hunt permit-tag by fraud. Peoria Justice Court Count A: Obtain 2002 hunt license by fraud.
Peralta, Jesus A.	Northwest Phoenix Justice Court Count A: Obtain 2002 hunt license by fraud. Count E: Obtain 2002 elk permit-tag by fraud.

	Northwest Phoenix Justice Court
	Count B: Obtain 2003 deer permit-tag by fraud.
Alvarado, Steve	Count A: Litter while hunting.
McCowan, Charles R.	Count A: Litter while taking wildlife.
Soulliere, Kirk H.	Count A: Take big game without a valid license (elk).
Soulliere, Jason K.	Count A: Take big game without a valid license (elk).

Roll call was taken. The following were present: Lauren Grove, Ryan Teele, Jesus Peralta, and Steve Alvarado.

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

Vote: Unanimous

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Kirk Soulliere and Jason Soulliere

MR. ORDWAY: Kirk Soulliere or Jason Soulliere have asked for continuance. I'll ask for the Commission, without any issue from the Department, to grant that.

Motion: Golightly moved and Melton seconded THAT A CONTINUACE BE GRANTED TO KIRK SOULLIERE AND JASON SOULLIERE.

Vote: Aye - Chilton, Gilstrap, Melton and Golightly
Nay - McLean
Passed 4 to 1

COMMISSIONER MCLEAN: Due to the Department not having recommended the continuance also on Teele and Grove, I vote nay.

MR. ORDWAY: With the new Article 6 Rules, the Commission rule allows for the Department to offer continuances in regards to good cause. We received a continuance request from the attorney, Mr. Lockwood, for Ryan Teele and Lauren Grove about a couple weeks back based on their current appeal of the criminal process to the next level in discussion with the Attorney General's Office. They do have a standing conviction within the Justice of the Peace level court, so basically the cause was not there to uphold, or put a stop, on the administrative action by the Commission. That's why the correspondence went back to them as such.

COMMISSIONER MCLEAN: My vote of no is simply because the Department is inconsistent in its recommendation.

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Charles McCowen

MR. ORDWAY: This morning we got a request as I was coming to the Commission meeting for Mr. Charles McCowen, he had a personal crisis this morning. He's a single parent, did not have any means by which to the take care of his kids today, something fell through. In fact, he was willing to write a statement, but he also said if it could potentially be continued to October, it's his desire to be at the meeting. So again, I ask the Commission, the Department does not have any issue with that, so I leave that decision with the Commission. The Department's recommendation is to allow continuance of that to the October meeting.

Motion: Golightly moved and MCLEAN seconded THAT THE DEPARTMENT ALLOW A CONTINUANCE FOR CHARLES MCCOWEN TO THE OCTOBER MEETING.

Vote: Unanimous

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Ryan Teele and Lauren Grove

Teele was found guilty by the Seligman Justice Court for: Count A: Take Wildlife From A Closed Area; and sentenced Count A: Fined $215.

Grove was found guilty by the Seligman Justice Court for: Count A: Take Wildlife From A Closed Area; and sentenced Count A: Fined $215.

MR. ORDWAY: Mr. Groves is indicating that he does have some displays that he'd like to share. I'll gladly put them up front for you.

COMMISSIONER MCLEAN: My understanding was that the individuals, in accordance with the letter from their attorney, Mr. Lockwood, had requested this hearing be postponed until their appeal was decided by the Superior Court, and that was denied by the Department with the advice that they could seek a further order of this Commission, and I don't know what their intent is now. I thought Mr. Lockwood was going to be here.

MR. ORDWAY: It's my understanding that they are not represented by counsel today.

COMMISSIONER MCLEAN: Mr. Groves, do you folks want to move forward or are you requesting that this matter be postponed until your appeal is decided?

MR. GROVES: We would like it postponed, but we were told over the phone that postponement was not acceptable. That barring medical emergency, we would be here.

COMMISSIONER MCLEAN: We understand that you were told you had to be here. You were also told that this Commission couldn't decide that question. So you are now requesting that it be postponed, and you have an appeal pending before the Superior Court; correct? The briefs have been filed; is that correct?

MR. GROVES: Yes, that's correct.

Motion: McLean moved THAT THE COMMISSION VOTE TO POSTPONE THIS HEARING.

Motion failed for lack of second.

COMMISSIONER MCLEAN: It goes beyond the fact that it's still in the Court. I inquired as to this matter and I understand that either one or both of these gentlemen have big game tags for this fall. If we take action today, and that action is to revoke their licenses, there is a strong likelihood that they will miss an opportunity to hunt in Arizona, which as of this moment they're legally entitled to. If the Superior Court overturns the lower court's conviction, that's the issue.

Motion Restated: McLean moved and Golightly seconded THAT THE COMMISSION VOTE TO POSTPONE THIS HEARING UNTIL TIME CERTAIN OR UNTIL THE FIRST COMMISSION MEETING FOLLOWING A DETERMINATION BY THE SUPERIOR COURT AS TO THE VALIDITY OR INVALIDITY OF THEIR CONVICTION.

COMMISSIONER GOLIGHTLY: You know I didn't realize it, but that would be too much of a penalty, if it were overturned, for someone to miss a big game hunting opportunity. Do you have big game tags that you drew through the draw?

MR. GROVES: Yes.

MR. ORDWAY: The Commission has some previous precedence for this where revocations commenced at a later date.

CHAIRMAN CHILTON: So we can go ahead and make a decision, but then it would be contingent on the Court's finding; it wouldn't take effect until then.

MR. ORDWAY: That would be within the purview of the Commission. You have done it several times in the past.

COMMISSIONER GOLIGHTLY: I recommend we do it. The timing can be delayed until such time as we have a verdict on the appeal, and then it could kick in the day after the appeal, or kick out.

COMMISSIONER MCLEAN: I can certainly live with that. These gentleman have raised a question that has been raised in other courts. There is a disagreement amongst some courts in Arizona as to whether or not notice of intent to post is enough or whether there has to be compliance with the statute. I don't know how the courts are going to rule on that. I hope that the courts rule that if an individual blatantly climbs over a fence in front of a no trespassing sign, that he is guilty of trespassing, but until the courts rule on that, I don't think it's fair to impose additional civil sanctions on them. If we can solve that problem by holding a hearing and

making a conditional revocation, if that's what this Commission decides to do, then I certainly can live with that. I'll withdraw the motion if Mike will withdraw his second.

Motion Withdrawn.

COMMISSIONER MELTON: If the gentlemen would like to request this to another date, I'd be comfortable with that. But if they would request us to go forward right now, I'd be satisfied with that issue also.

MR. GROVES: If we go forward at this time then are we jeopardizing our fall hunts?

COMMISSIONER MELTON: I don't think so. Whatever we do at this time would be pending on that particular ruling from the Court, so it would not go into effect until that came down.

COMMISSIONER GOLIGHTLY: I think you've got enough assurances. I mean, you don't know until the vote's taken, but I think you can read what's going on here. We've all read the docket. The Department's done all their work. We've got the Game Ranger here that was involved. You folks have come a long way and spent money to get here. My recommendation is to just do it. In a way I agree with Joe. Maybe we should do it later, but I think, here nor there, we got a conviction, and that's what we're dealing with. You're appealing that conviction. We've had many cases where the convictions have been appealed and they've gone either way. With whatever we do today and the conviction is overturned, everything goes away. It's all done. We don't have to do anything again.

MR. GROVES: If we postpone, if that was the case, it would be some date in October?

MR. TEELE: Would you defer the hearing until you had an adequate appeal?

COMMISSIONER GOLIGHTLY: We don't need an appeal to do this hearing. We've got a conviction. That's all we need.

MR. TEELE: But it's based on a decision by the courts.

COMMISSIONER GOLIGHTLY: We've seen some of these delayed for six, twelve months. I don't want to go through that, because I've seen some instances where they were purposely delayed beyond the spring hunt, and then they were delayed beyond the next fall hunt. Now, if you appeal the appeal, then it's another matter.

MR. TEELE: Can I ask what the ramifications are if you guys decide today to take our licenses away from us today? Does that mean they would possibly get reinstated in another few months, or whatever, when we found out what the outcome of the appeal was?

CHAIRMAN CHILTON: No, the answer to that is that we could pass a motion that would say contingent upon the finding of the Court.

MR. GROVES: Then if a tag came after that date, and it was taken away and so the hunt was missed, could that be reinstated? If we were found not guilty in court, and we missed the deer hunt, would it be reinstated?

CHAIRMAN CHILTON: Nothing is going to happen to your deer tag or to anything else.

MR. GROVES: Until the appeal?

CHAIRMAN CHILTON: That is assuming that's the way we vote. Nothing happens. You just proceed as if nothing had occurred until we hear from the Court.

COMMISSIONER MELTON: I might add one more keynote to that. If we do this right now, the minute that judges ruling comes down if it's in opposition to you guys, that's when it occurs. If we postpone and the judge's ruling comes down, it then has to be brought back in front of the Commission. So there is a time lapse between when it actually happens and when it comes back in front of us again, so that's why I was asking the question. What do you guys prefer? I know you don't want to have to spend more money coming down here, and if you're ready to address it right now, we'll move forward with it.

MR. TEELE: When is the next Commission meeting that you guys are having?

COMMISSIONER MELTON: October.

COMMISSIONER MELTON: I have a real problem dealing with it ahead of time. I would prefer to wait until the ruling is final.

MR. TEELE: We'd be comfortable with what you're suggesting, that we delay it until the court case is over.

Motion Amended: McLean moved and Melton seconded THAT THE COMMISSION VOTE THAT THIS MATTER BE CONTINUED OR POSTPONED TO THE FIRST REASONABLY AVAILABLE COMMISSION MEETING FOLLOWING A DECISION BY THE YAVAPAI COUNTY SUPERIOR COURT ON THOSE TWO LOWER COURT APPEAL NUMBERS OF RECORD CONCERNING THESE APPEALS.

MR. ORDWAY: In regards to setting a precedence for future actions, basically anybody could appeal and the Department's concern would be the precedence that you're setting here. You've had this situation before you in the past. One of the most prime cases was the Stapely Dewitt case, which was a landmark decision for the Violator Compact, but it was an appeal process that went for a long time, and it was upheld.

COMMISSIONER MCLEAN: My concern with this one is that I believe there is a legitimate legal issue that needs to be decided. There are any number of cases in which individuals sometimes take appeals solely for the purpose of delay, and I for one am not bright enough to be able to craft some magic rule that tells me when that is, but I know it when I see it, and I'll guarantee that if I see somebody that comes before me that's just trying to delay for delay's sake,

I'm not going to be impressed any more than I'm impressed with these guys climbing over a fence with a no trespassing sign on it. But what I see and what I hear based upon my background as 35 years as a lawyer, both a prosecutor and a criminal defense lawyer, is a legitimate legal dispute that needs to be addressed by somebody other than a Justice of the Peace, and that's not a comment on Justice Blaylock, it's simply that I think that needs to go at least a step higher to a Superior Court judge. When that ruling comes down, I will be ready to go forward substantively.

MR. ORDWAY: The only other observation was the question that was asked in regards to the administrative timeframe, when in regards to the appeal process, if it was overturned or upheld, we would have the case back before the Commission. They would be notified within 20 days of the hearing, and we would do that as expeditiously as possible.

MR. ODENKIRK: The statute requires that we give notice of a hearing within 180 days of the conviction. Typically, in the situations when the petitioner is asking for a continuance, they also agree to waive any requirement that we give notice within 180 days. So I would recommend that your decision to continue this matter be conditioned upon the petitioner's willingness to waive any time limitations.

COMMISSIONER MCLEAN: If necessary, I would add that to my motion. Mr. Groves, Mr. Teele, what the Attorney General just said, we got certain time limits that we have to hold this hearing that you're now asking to be postponed, so you're going to have to agree to waive or give up those time periods. Do you both understand that? Do you both agree to that?

MR. GROVES: That's the 180-day notification?

COMMISSIONER MCLEAN: Yes.

MR. GROVES: Yes, we agree to that. Approximately how many days would that be?

MR. ORDWAY: This legal process depends on the court docket and so forth at the Superior Court level. This could be a year from now or more, but it all depends upon what's going on in Yavapai County.

COMMISSIONER MELTON: If we went ahead and did revocations today, and this did take another year or so, would it affect any of their abilities to buy a hunting license or anything until that time?

MR. ORDWAY: As I understand the communication and discussion that was going on, if the Commission, hypothetically, was to take a revocation action today, and timed it such that it would not occur until after final decision, the Department would take no action or have any causative effect on these individuals until after that decision was made by that court.

COMMISSIONER MELTON: We have two options. One option is to do it today and go to the end of the time, or postpone it until that time, so I guess that was just for clarification.

CHAIRMAN CHILTON: I am in favor of going ahead with this today on those contingency conditions.

COMMISSIONER GOLIGHTLY: I'd like to do it today.

CHAIRMAN CHILTON: We do have a motion on the floor. The motion as I understand it is to take no action until after the first feasible time after the Yavapai Court makes its decision on the appeal.

Vote: Aye - McLean, Melton and Golightly
Nay - Chilton
Motion passed 3 to 1
Gilstrap was absent

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Jesus Peralta

Peralta was found guilty by the Northwest Phoenix Justice Court for: (First Citation) Count A: Obtain 2002 Hunt License By Fraud; Count E: Obtain 2002 Elk Permit-Tag By Fraud; and sentenced Count A: Fined $320 including all surcharges; and Count E: Fined $480 including all surcharges; (Second Citation) Count B: Fine waived.

MR. PERALTA: I've lived all my life in Arizona. A couple years after graduating from college I relocated for work, but consider Arizona as my home. My intent has always been to be in Arizona. I only left due to work and it's been kind of back and forth between Arizona. Colorado was a temporary assignment, and Las Vegas, and now I'm actually permanently relocating back to Arizona again.

COMMISSIONER GOLIGHTLY: Mr. Peralta, where do you pay your income taxes?

MR. PERALTA: Different years have been different. It's been Arizona, in 2001 it was Arizona and Colorado due to the move. Then I believe 2002, 2003 have been Nevada, and now it will be Nevada and Arizona this year. I own my home here, and I've also owned a home in Colorado. I owned a home for four months due to my company, it's always advantageous for me to own homes, and the company helps purchase homes no matter if it's temporary living or not. Right now I own a home in Nevada that is up for sale, and I actually own a home in Arizona right now, or in the process of purchasing a home in Arizona.

COMMISSIONER GOLIGHTLY: In the fall of 2003, what state was your driver's license from?

MR. PERALTA: 2003 would have been Nevada.

COMMISSIONER GOLIGHTLY: If you're an Arizona resident why wouldn't you have an Arizona resident license?

MR. PERALTA: I know it's probably my obligation to read and understand all the laws, but I've always considered Arizona as resident where I hunt. If you read in the case, my family, we've always hunted growing up here since I was young in Arizona.

COMMISSIONER GOLIGHTLY: What license plate did you have on your personal vehicle?

MR. PERALTA: I've had two. I have a Trooper that had Arizona that we just sold, and then I had my new Yukon that I bought in Nevada and it was issued in Nevada.

CHAIRMAN CHILTON: Where are you registered to vote?

MR. PERALTA: The last place I registered to vote would have been Arizona. I didn't register in Nevada, and I don't believe I registered in Colorado. I haven't registered the last couple years just because of all my moves.

COMMISSIONER MCLEAN: So you neither registered to vote nor did you in fact vote?

MR. PERALTA: I have not voted.

COMMISSIONER MCLEAN: So you didn't vote in Arizona?

MR. PERALTA: The last time I voted in Arizona would have been probably 2000 or 1999, but also there's been numerous charges. Some were also charged in Green Valley, and most of my charges have been dropped due to the fact of the question of my residency, with the exception of the three, I had eight or nine charges in the count in Phoenix? Most of those were all dropped, with the exception of three, and those were also settled out of no contest just because I wanted to go to the plea. I wanted to put it past me and move on forward.

CHAIRMAN CHILTON: Where are you presently residing?

MR. PERALTA: I'm presently residing between Nevada and Arizona until my house is complete. I have the contract to show it will be done in October, and then I will be residing in that home. Right now I'm residing with my grandparents and my wife until our house is done, and our house in Nevada is for sale. So I've kind of bounced around, and that's why to me it's very confusing because I've bounced around a lot only because of work. I was born and raised and my intent has always been in Arizona.

CHAIRMAN CHILTON: Have you hunted in another state?

MR. PERALTA: In 2000 I put in for Colorado, and that's when I didn't put in Arizona because I was in Colorado. In 2000 I put in Colorado, but I've also bought fishing licenses in places, but they've always been nonresident when I've put in for them, with the exception of Arizona.

CHAIRMAN CHILTON: Do you hold a nonresident license in some other state?

MR. PERALTA: Since I've now understood, and I've talked with the officer, even though she assessed me with fines, she was also very helpful in educating me. I said if this is what I've done, it's not right. This year I did put in as nonresident in Arizona. This year I did draw out and put in as a nonresident, and I understand that I'm still moving back here, but I didn't ever know about the six month thing, you have to be in the sixth month before you could hunt. So I did put in as a nonresident. I did draw a big game deer tag this year. As far as anywhere else, no, I have not put in for a nonresident anywhere else.

CHAIRMAN CHILTON: Or for resident either?

MR. PERALTA: No, I just have a big game tag, nonresident in Arizona this year. I have never put in Nevada as a resident hunter, or fished as a resident.

COMMISSIONER GOLIGHTLY: But you put in Colorado as a resident of Colorado?

MR. PERALTA: For 2000 when I didn't put in here. I didn't put in for Arizona in 2000 because I was moving, and I was kind of like, where am I going to live? I didn't understand exactly what was going on with my company. I put in there, but then when I was done, I was under the impression I was moving back to Arizona for a few months, and then a position opened up in Nevada, and that's when I went. I already put in for Arizona, but I moved to Nevada. I never put in for Nevada.

COMMISSIONER GOLIGHTLY: Are you saying that you just didn't know, and that's what caused you to do what you did?

MR. PERALTA: I'm not playing stupid, but I just didn't have an understanding. I understand my residency when it comes to my car and driver's license, but all my life I hunted Arizona. I never really thought about the ramifications. Come hunting season, your friends and family call and say let's go, and we all just put in for hunting. I know when I talked to Officer Johnson, he said it's still my obligation to understand that, but at that time I didn't. Now I understand it and since then I have changed my behavior, and I started putting in as nonresident, which is going to be in effect for another year. Then I will be a resident again of Arizona permanently.

COMMISSIONER GOLIGHTLY: Unfortunately, our officers spend a lot of time and money trying to protect Arizona residents from nonresident hunting that we consider as fraud. It's a bad term, but it doesn't necessarily mean you're terrible. That's the name they assign to what happens when you do what you do. They spend a lot of time and money, and they expect the Commission to support them.

MR. PERALTA: Within reason, though. If the officer was here, I would hope that she would tell you that I was up front with everything. I don't even know if there was research needed. I know there is due to the process, but I didn't try to lie. I was forthcoming with everything. I can see if this was a case where a guy never lived in Arizona, came to Arizona, and put in due to the fact of the hardship of getting a tag here when you're a nonresident, but I've lived all my life in Arizona, with the exception of a few years where I left for work.

Motion: Golightly moved and McLean seconded THAT THE LICENSE AND LICENSE PRIVILEGE OF JESUS A. PERALTA TO HUNT IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND IT BE REVOKED AS OF THE DATE OF THE ORDER IN THIS CASE AS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT BEFORE APPLYING FOR ANOTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR BRING CIVIL ACTION AGAINST JESUS A. PERALTA TO COLLECT THE AMOUNT OF $2,277.23 FOR THE LOSS OF ONE (1) ELK; AND I FURTHER MOVE THAT THE DIRECTOR AS SECRETARY OF THE COMMISSION BE DIRECTED TO SIGN AN ISSUE OF FINDING OF FACT, INCLUSIONS OF LAW AND ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Steve Alvarado

Alvarado was found guilty by the Fredonia Justice Court for : Count A: Litter While Hunting; and sentenced: Count A: Fined $100.

MR. ALVARADO: I just handed out a couple of pictures of my camp, and the pictures that the officer has taken. Also, on my notes, when I refer to the camp being cleaner when I left than before I got there, the pictures indicate what I'm talking about as far as the rope being there, the plywood being there, the carcass remains that you can barely see on the edge where the deer's hanging; also, the two water bottles that the officer mentioned that I left behind. I stated to him that it was arranged with hunters to pick these up because they were sealed and they were usable, and I made arrangements that evening with a couple hunters, and in the officer's report it does state that they were picked up.

CHAIRMAN CHILTON: We just received this, so we're reading. Did you write this summary, this diary type summary, after the event, or do you keep a record during the event?

MR. ALVARADO: I did it after the event, only because when the officer called me 65 days later, I tried to remember things and it was kind of tough, so I wrote it down to the best of my knowledge.

CHAIRMAN CHILTON: Did you see other hunters in the area?

MR. ALVARADO: There was about seven to nine camps in the area.

COMMISSIONER GOLIGHTLY: Okay, you said you left the water bottles. There appears to be two pieces of plywood. The plywood is yours also?

MR. ALVARADO: That's a negative. Those weren't my plywood.

COMMISSIONER GOLIGHTLY: Then why would you put your bottles next to a camp or some other place that would distinguish them from someone else's trash?

MR. ALVARADO: That campsite right there with those plywood, that's right beside the fire in my camp facing northeast of that. I put the bottles on that plywood so somebody could take them up.

COMMISSIONER GOLIGHTLY: What were the people's names that were going do pick them up?

MR. ALVARADO: I didn't have any names, I asked them if they needed some water because we were breaking camp in the morning. They said they would be there that evening or first thing in the morning depending on their evening hunt. I think, too, when they said it was littering, I consider littering as a destructive and just negligence type of littering. When he says littering in the fire pit, first of all, the majority of fire pits have cans in them. I stated in my statement and scenario, I don't carry cans for that reason. I precook a lot of stuff and put it in plastic bags. I don't use cans. Those cans were there.

COMMISSIONER GOLIGHTLY: Could you bring that one picture back up? If you were sitting in this camp and you had that kind of fire going that appears to be three feet high of flames, and this appears to be a plastic bottle in the fire pit, it would seem to me that that thing would have exploded a long time ago and melted.

MR. ALVARADO: That's what I'm saying, that's not my bottle.

COMMISSIONER GOLIGHTLY: But you used the same fire pit.

MR. ALVARADO: Yes, but if you'll notice the fire pit, this fire pit looks like it's small, but this half of the pit is still unburned. I only used a third of it.

COMMISSIONER GOLIGHTLY: It's full of fire wood.

MR. ALVARADO: No, not the full fire pit. Just one part of it.

COMMISSIONER GOLIGHTLY: I say it's full of firewood.

MR. ALVARADO: Look at the ring to the right of it. That's a full ring.

COMMISSIONER MCLEAN: You're telling us that you moved into this campsite after somebody else had already moved out?

MR. ALVARADO: Yes.

COMMISSIONER MCLEAN: And you're telling us that there were deer legs hanging in the tree on a rope when you got there?

MR. ALVARADO: Not on a rope, but in the tree.

COMMISSIONER MCLEAN: There was rope up in that tree?

MR. ALVARADO: That's the rope there that was left before me.

COMMISSIONER MCLEAN: And the fire pit was full of trash?

MR. ALVARADO: No, not to my knowledge. If you read the statement, the officer said he had to dig real deep into the fire pit to find cans. Now I didn't dig into the fire pit to see if there were cans in it. I just put wood in the fire pit. They were probably covered up. I don't know.

COMMISSIONER MCLEAN: There was no trash other than the legs in the tree and the rope in the tree.

MR. ALVARADO: And the beer cartons.

COMMISSIONER MCLEAN: And the beer cartons, it was a pristine camp and you left it that way?

MR. ALVARADO: Left it that way.

CHAIRMAN CHILTON: Did the investigating officer arrive at that campsite shortly after this gentleman left, or two days after the gentleman left?

MR. ORDWAY: The officer's report indicates that he comes by Mr. Alvarado's camp early that morning approximately 6:30 a.m., and then he makes plans since he has a deer hanging, he didn't want to wake the individual up because he could tell the person wasn't moving around yet, so he made plans a couple hours later to come back. He indicates in his report that he showed back up to camp around 10 a.m., which would be about three and a half hours later, and that's when he discovered the smoldering fire pit with snow, and indicated the trash that he recovered from the fire pit, and that's when the pictures were taken. I talked to Officer Langley in regards to this, it was my choice not to have him come down all the way from the North Kaibab area today, but he contests and he stands by the report, that the trash that he picked up or discovered within the camp belonged to Mr. Alvarado.

CHAIRMAN CHILTON: Well, all I can say is, if you go into a campsite with a bunch of old pans and bottles, it's probably best to pick them up because you can't prove that you didn't leave them later.

MR. ALVARADO: And that was my concern, I'm so leery now that I'm going to have to pick up all the cans out of the fire pit, basically, so I don't get cited. If you see 90 percent of these camps, even I went out and looked again between now and last year, there's cans in them.

Motion: Melton moved and McLean seconded THAT THE LICENSE AND LICENSE PRIVILEGES OF STEVE ALVARADO TO HUNT IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TWO YEARS; THAT THE LICENSE BE SUSPENDED FROM THE DATE OF THIS HEARING; THAT IT BE REVOKED AT 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'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 CONCLUSION OF LAW AND ORDER IN THIS MATTER PURSUANT TO THIS MOTION, AND THIS MOTION'S DEALING WITH THE FACT THAT MR. ALVARADO WAS FOUND GUILTY, AND WE ARE ASSESSING THAT GUILTY. WE'RE NOT TRYING TO ASSESS THE GUILT.

MR. ALVARADO: I pleaded no contest on that and the reason I did that was because of the travel and the hardship of going all the way up to Patagonia with the lawyers, and they basically agreed $100 fine and left at that, rather than have them come from Phoenix or my lawyer come from Bullhead City. The feasibility and the benefits from that and timeframe for everybody involved, that's why we pleaded no contest.

COMMISSIONER MELTON: Our job is not to distinguish the guilt. The guilt has already been ruled in a court of law. We're simply applying whatever we feel is justified for that guilt.

CHAIRMAN CHILTON: It was for hunt only, and it was for two years, which means we are taking a lot of the benefit of the doubt in the question here.

Vote: Unanimous

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Wesley H. Frost

Frost was found guilty by the Payson Regional Justice Court for: Count B: Take Wildlife While Revoked; and sentenced: Fined $665, and one year of unsupervised probation during which time the defendant is not to be in the field with anyone who is hunting.

COMMISSIONER MELTON: It seems to me we have a real habitual fellow here, and if we revoke another five years, it's going to be 2016 before he can buy a license, but that doesn't seem to bother him. In this process he just keeps stacking up the revocations. Is there anything else we can do or is this our statute of limitations on this?

MR. ORDWAY: That is why the civil enhancement legislation suggestion for this year is coming, so in cases like this, you're able to take these privileges away forever, and if that person would be caught in that timeframe, they'd be charged with a felony. Mr. Frost has served time in

jail. We expect that he's probably going to serve additional time in jail pending the cases we have right now before the Justice Court.

Motion: Melton moved and McLean seconded THAT THE LICENSE AND LICENSE PRIVILEGE OF WESLEY H. FROST TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS TO RUN CONSECUTIVELY TO HIS CURRENT CASES; THAT THE LICENSE BE SUSPENDED THE DATE OF THIS HEARING, AND IT BE REVOKED THE DATE THIS ORDER 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 OF FINDING OF FACT, CONCLUSION OF LAW AND ORDER IN THE MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Gary S. Hinshaw

Hinshaw was found guilty by the Kingman Justice Court for: Count A: Sell Unlawfully Taken Wildlife (Gila monster) and sentenced: Fined $500, and pay restitution of $500.

Motion: McLean moved and Golightly seconded THAT THE LICENSE AND THE LICENSE PRIVILEGE OF GARY SCOTT HINSHAW TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND THAT HE BE DENIED ANOTHER FOR A PERIOD OF FIVE YEARS; THAT THE LICENSES BE SUSPENDED FROM THE DATE OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE THE ORDER IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE A HUNTER EDUCATION COURSE AND PROVIDE PROOF TO THE DEPARTMENT LAW ENFORCEMENT BRANCH BEFORE APPLYING FOR ANY OTHER LICENSES TO HUNT IN THIS STATE. I FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY OF THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, AND CONCLUSION OF LAW AND ORDER WITH THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Paul A. Mobley

Mobley was found guilty by the Northwest Phoenix Justice Court for: Count C: Obtain 2003 Deer Hunt Permit-Tag By Fraud; and sentenced: Fined $480 including all surcharges. Mobley was found guilty by the Peoria Justice Court for: Count A: Obtain 2002 Hunt License By Fraud; and sentenced: Fined $443, with no surcharges and one year of probation. A copy of a letter from Mr. Mobley was provided for the Commission's consideration before today's hearing.

COMMISSIONER GOLIGHTLY: I just want to make note that there are some factors concerning this case that were different from the other case. One, he really didn't admit to taking any wildlife or committing fraud, which he may or may not have. The second issue is that he definitely knew he was a nonresident when he applied.

Motion: Golightly moved and McLean seconded THAT THE LICENSE AND LICENSE PRIVILEGES OF PAUL A. MOBLEY 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 LICENSE BE SUSPENDED THE DAY OF THIS HEARING AND THAT THEY BE REVOKED AS OF THE DATE OF THE ORDER IN THIS CASE AS 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. I FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AN ISSUE OF FINDING OF FACT, CONCLUSIONS OF LAW AND ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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