

DRAFT

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Friday, March 11, 2005 - 2:00 p.m.
Holiday Inn Palo Verde
4550 S. Palo Verde Road
Tucson, Arizona 85714

PRESENT: (Commission)

(Director's Staff)

Chairman W. Hays Gilstrap
Commissioner Joe Melton
Commissioner Michael M. Golightly
Commissioner William H. McLean

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

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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: Mike Godwin, Acting 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.

The Commission considered and took action on the license revocations and/or civil assessments for the individuals listed below:

<u>Name</u>	<u>Conviction</u>
Jamgochian, Ohannes	Count A: Hunt within posted closed area (dove).
Kuyumjian, Vicken	Count A: Exceed bag limit (1 dove).
	Count B: Hunt within posted closed area (dove).
Gee, Lawrence Y.	Count A: Exceed bag limit (two antlerless elk). Continued from the December 10, 2004, Commission meeting.
Kalabus, Christopher N.	Count A: Fail to tag big game (antlerless elk). Continued from the December 10, 2004, Commission meeting.
Goodman, Gregory E.	Count A: Possess/transport big game without a tag (antlerless elk). Continued from the December 10, 2004, Commission meeting.

Hughes, Russell E.

Count A: Allow big game tag to be attached to an animal that you did not kill (elk). Continued from the December 10, 2005, Commission meeting.

Roll call was taken and the following were present: Lawrence Y. Gee, Christopher N. Kalabus.

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

Vote: Unanimous
Chilton was not present

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The following four, Gee, Kalabus, Goodman, and Hughes are related to the same incident.

Lawrence Y. Gee

Gee was found guilty by the Round Valley Justice Court for: Count A: Exceed Bag Limit (Two Antlerless Elk); and sentenced Count A: Fined \$948.00.

The Round Valley Justice Court granted a set aside judgment to the finding of guilty. The court did not intend for this action to limit the Commission's ability to revoke or civilly assess this individual.

Gee was present and represented by his lawyer, Chris Kiminal. The convictions have been set aside by the court and motions to dismiss have been filed. Mr. Kiminal questioned the Commission's authority to assess damages and the validity of the amounts for damages, and further stated that Gee was not served within 180 days as required by statute.

Mr. Odenkirk stated that the statute does not provide for a penalty for failing to serve within 180 days; it's not a mandatory statute and there is no consequence to the agency for not serving within that period of time.

Commissioner McLean confirmed that Gee, Kalabus and Hughes were themselves attorneys and suggested that these may be crimes of moral turpitude.

Commissioner Melton asked Mr. Odenkirk about the affect a set aside judgment has on the Commissions ability to take action.

Mr. Odenkirk stated that in a set aside conviction, the statute says that any penalty or any type of action that requires a conviction cannot occur except for situations involved with the Department of Transportation. The Commission's authority is two-fold, they have the authority to revoke a license, but that authority requires a conviction. Separately, the Commission has the authority to pursue civil actions to recover the value of wildlife unlawfully taken or possessed. That statute does not require a conviction to precede that action, and the Commission has in the past pursued civil actions against individuals when there has been no conviction.

Commissioner Melton asked about the Commission’s authority in this particular case to revoke licenses and to assess civil damages.

Mr. Odenkirk stated that it was doubtful in this case, given the set aside, that they had the authority to revoke the license, but that they did have the authority to pursue civil action.

Motion: Golightly moved and Melton seconded THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST LAWRENCE Y. GEE TO COLLECT THE AMOUNT OF \$1,138.62 FOR HIS PART IN THE LOSS OF TWO (2) ANTLERLESS ELK; 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
Chilton was not present

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Christopher N. Kalabus

Kalabus was found guilty by the Round Valley Justice for: Fail to Tag Big Game (Anterless Elk); and sentenced Count A: Fined \$228.00.

The Round Valley Justice Court granted a set aside judgment to the finding of guilty.

Kalabus was present and represented by his lawyer, Chris Kiminal.

Motion: Golightly moved and McLean seconded THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST CHRISTOPHER N. KALABUS TO COLLECT THE AMOUNT OF \$1,138.62 FOR HIS PART IN THE LOSS OF TWO (2) ANTLERLESS ELK; 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
Chilton was not present

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Gregory E. Goodman

Goodman was found guilty by the Round Valley Justice Court for: Count A: Possess/Transport Big Game Without Tag Attached (Antlerless Elk); and sentenced Count A: Fined \$228.00.

The Round Valley Justice Court granted a set aside judgment to the finding of guilty.

Goodman was not present, but was represented by his lawyer, Chris Kiminal.

Motion: Golightly moved and McLean seconded THAT THE DEPARTMENT BE DIRECTED TO COLLECT SHARED CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST GREGORY E. GOODMAN TO COLLECT THE AMOUNT OF \$1,138.62 FOR HIS PART IN THE LOSS OF TWO (2) ANTLERLESS ELK; 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
Chilton was not present

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Russell E. Hughes

Hughes was not issued a citation, the County Attorney declined prosecution due to not being able to contact, so the only thing being considered was the civil restitution portion.

Motion: Golightly moved and Melton seconded THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION TO COLLECT THE AMOUNT OF \$1,138.62 FROM RUSSELL E. HUGHES; 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
Chilton was not present

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The following two, Jamgochian and Kuvumjian are related cases.

Ohannes I. Jamgochian

Jamgochian was found guilty by the Yuma Justice Court for: Count A: Hunt Within Posted Closed Area (Dove); and sentenced Count A: Fined \$239.00.

Jamgochian was not present.

Commissioner McLean received a letter from Kuvumjian questioning the manner in which the field was posted.

The officer involved, Becky Wright, addressed the Commission stating that the field was one square mile and was posted with 42 signs, one at each corner, at every entrance, and in between; and further explained the events leading up to the citations.

Commissioner Melton was in the field and involved in these cases, so he abstained from making a motion in these cases.

Motion: McLean moved and Golightly seconded THAT THE LICENSE(S) AND/OR LICENSE PRIVILEGES OF OHANNES I. JAMGOCHIAN TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF 5 YEARS. THAT THE CURRENT LICENSE(S) 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 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
Chilton was not present

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Vicken Kuvumjian

Kuvumjian was found guilty by the Yuma Justice Court for Count A: Exceed bag limit (1 Dove); Count B: Hunt within posted closed area (Dove); and sentenced Count A: Fined \$68.00; and Count B: Fined \$203.00.

Kuvumjian was not present.

Motion: McLean moved and Golightly seconded THAT THE LICENSE(S) AND/OR LICENSE PRIVILEGES OF VICKEN KUVUMJIAN TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF 5 YEARS. THAT THE LICENSE(S) 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 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
Chilton was not present

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