

Proceedings of the Arizona Game and Fish
 Commission License Revocation and Civil
 Assessment Hearings
 Time Certain – 2:00 p.m.
 Friday, April 16, 2010
 Arizona Game and Fish Department
 5000 West Carefree Highway
 Phoenix, Arizona 85086

PRESENT: (Commission)

(Director’s Staff)

Chairperson Jennifer L. Martin
 Vice Chair Robert R. Woodhouse
 Commissioner Norman W. Freeman
 Commissioner Jack F. Husted
 Commissioner John W. Harris

Director Larry D. Voyles
 Deputy Director Gary R. Hovatter
 Assistant Attorney General Jim Odenkirk
 Assistant Attorney General Linda Pollock

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. Each of the following individuals was legally noticed for this hearing.

<u>Name</u>	<u>Docket #</u>	<u>Count</u>	<u>Conviction</u>
Charles S. Reid	2010-0021	Count A:	Take in Closed Area (Antelope)
David A. Reid	2010-0022	Count A: Count B:	Take in Closed Area (Antelope) Possess Unlawfully Taken (Antelope)
Earl N. Wood	2010-0023	Count C:	Take Wildlife Without License (Quail)
Austin C. Sauer	2010-0024	Count A: Count B:	Take Wildlife Without Permit (Elk) Possess Tag Issued to Another
James A. Martinez	2010-0025	Count A: Count B:	Possess Unlawfully Taken (Elk) Facilitation: Allow Another Use of Tag
Freeman L. Kartchner	2010-0026	Count B:	Take Wildlife Closed Season (Deer)

Teddy C. Long 2010-0027 Count A: Take Wildlife Without Permit (Elk)

Roll call was taken and the following were present: Charles Reid, David Reid, Austin Sauer, James Martinez, and Teddy Long.

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.

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

Vote: Unanimous

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The cases of Charles Reid and David Reid were related.

Charles S. Reid
Docket # 2010-0021

Reid was found guilty by the Prescott Justice Court for: Count A: Take in Closed Area (Antelope); and sentenced Count A: Fined \$200.00.

Commissioner Martin confirmed with Mr. Elms that the reason the area south of 89A was closed to pronghorn hunting was because it was a small herd of pronghorn and not a huntable population.

Commissioner Freeman asked the Assistant Attorneys General if it was correct that the Department can only issue unit descriptions in textual form and not maps.

Mr. Odenkirk stated that under the current rulewriting requirements, unit descriptions must be in a narrative descriptive form as opposed to a map and that's why the hunt unit boundaries are described that way in the Commission's rules.

Case Officer Gouldsbury was present and answered questions for the Commission. Because of access issues, Officer Gouldsbury provided access maps for hunters in Unit 19A that showed where private and state land was in order to help them navigate the area. The maps she provided did not have hunt boundaries.

Reid was present and addressed the Commission stating that the map provided by Officer Gouldsbury threw him off and caused him and his brother David Reid to hunt in the closed area. Also, the private property was not posted.

Commissioner Woodhouse questioned Mr. Reid about the hunt application, in which he applied and had to put in the hunt number, where it clearly states you have to be north of Highway 89A within Unit 19A. Further, Commissioner Woodhouse stated that it is incumbent upon the hunter that draws a tag to make sure what the hunt area is including any special boundary, and that claiming someone should have provided something more was not a viable excuse.

Chairperson Martin and Commissioner Woodhouse both praised Officer Gouldsbury for going above and beyond in trying to assist the hunters in the area.

Chairperson Martin further commented that she believed Mr. Reid hunted in a closed area by accident, but that it was a significant accident because the pronghorn population cannot sustain hunting.

Commissioner Freeman commented that he didn't believe this was a pre-determined malicious act and that his motion will reflect that. He also expressed appreciation for Mr. Reid being cooperative and respectful to the Officer.

Motion: Freeman moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CHARLES S. REID TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TWO (2) 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: Aye - Martin, Freeman, Husted, Harris
Nay - Woodhouse
Passed 4 to 1

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The cases of Charles Reid and David Reid were related.

David A. Reid
Docket # 2010-0022

Reid was found guilty by the Prescott Justice Court for: Count A: Take in Closed Area (Antelope); and Count B: Possess Unlawfully Taken (Antelope) and sentenced Count A: Fined \$200.00 and Count B: Sentence suspended.

Case Officer Gouldsbury was present.

Reid addressed the Commission stating that he and his brother had not hunted in that area before, the private property was not posted, and the access map provided by Officer Gouldsbury seemed to indicate that they could hunt in that area. They thought they were hunting legally.

Commissioner Harris questioned Mr. Reid on whether he reviewed his hunt unit boundary description and compared that to any maps so he could know where he was allowed to hunt.

Mr. Elms noted that even though trespassing is not part of this case, the road in which Mr. Reid drove into their camp was posted "no trespassing" on both sides of the road.

Motion: Freeman moved and Harris seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DAVID A. REID TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TWO (2) 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 DAVID A. REID TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) PRONGHORN ANTELOPE; 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: Aye - Martin, Freeman, Husted, Harris
Nay - Woodhouse
Passed 4 to 1

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Austin C. Sauer
Docket # 2010-0024

Sauer was found guilty by the Snowflake Justice Court for: Count A: Take wildlife without permit (elk); Count B: Possess Tag Issued to Another; and sentenced Count A and B: Fined \$250.00 and three months unsupervised probation.

Case Officer Lautzenheiser was present.

Sauer was present and addressed the Commission stating that he shot the elk and then lied. He didn't want to get his best friend's fathers in trouble for letting him hunt with his friend's tag.

Motion: Woodhouse moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF AUSTIN C. SAUER 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 AUSTIN C. SAUER TO COLLECT THE SHARED AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) 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

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The cases of Austin C. Sauer and James A. Martinez were related.

James A. Martinez
Docket # 2010-0025

Martinez was found guilty by the Snowflake Justice Court for: Count A: Possess Unlawfully Taken (Elk); Count B: Facilitation: Allow Another Use of Tag; and sentenced Count A and B: Fined \$250.00 and three months unsupervised probation.

Case Officer Lautzenheiser was present.

Martinez was present and addressed the Commission admitting that what he did was wrong and apologized. It was a bad decision and he hated seeing Austin lying about the circumstances.

Jeff Becker (father of Austin's friend Zachery) stated that Zachery got sick and he thought that since it was a youth tag that another youth could use it. He could now see that it was wrong and that they sent the wrong message to the kids, and he apologized.

Chris Sauer (father of Austin Sauer) stated that he was out of town at the time this happened and had the impression that the youth tag could be transferred to Austin. He understands and is okay with Austin's license revocation, but the civil assessment will be a punishment for him because he will have to pay it and he didn't do anything wrong.

Motion: Harris moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JAMES A. 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; THAT THE DEPARTMENT BE

DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST **JAMES A. MARTINEZ** TO COLLECT THE **SHARED** AMOUNT OF **\$2,500.00** FOR THE LOSS OF **ONE (1) 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

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Teddy C. Long
Docket # 2010-0027

Long was found guilty by the Snowflake Justice Court for: Count A: Take Wildlife Without Permit (calf elk); and sentenced Count A: Fined \$450.00 and three months unsupervised probation.

Case Officer Whiting was not present.

Long was present and addressed the Commission stating that he miscalculated where the boundary line was. He crossed the fence and shot the elk about 50 yards away thinking that the boundary was another three quarters of a mile.

Commissioner Husted questioned Mr. Long about why he didn't immediately tag the elk and why he didn't completely gut it, which resulted in spoilage.

Mr. Long stated that it was getting dark and he was physically exhausted.

Motion: Harris moved and Woodhouse seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **TEDDY C. LONG** 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 A. MARTINEZ** TO COLLECT THE AMOUNT OF **\$2,500.00** FOR THE LOSS OF **ONE (1) CALF 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: Aye - Woodhouse, Freeman, Husted, Harris
Nay - Martin
Passed 4 to 1

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Freeman L. Kartchner
Docket # 2010-0026

Kartchner was found guilty by the Round Valley Justice Court for: Count B: Take Wildlife Closed Season (Mule Deer Doe); and sentenced Count B: \$600.00 to be paid in restitution to the private landowner.

Kartchner was not present.

Motion: Husted moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF FREEMAN L. KARTCHNER 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 FREEMAN L. KARTCHNER TO COLLECT THE AMOUNT OF \$6,000.00 FOR THE LOSS OF FOUR (4) MULE DEER DOE; 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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Earl N. Wood
Docket # 2010-0023

Mr. Elms advised the Commission that Mr. Wood requested a continuance due to a scheduling conflict. He would like to be present and address the Commission.

The Commission discussed with Mr. Elms whether the conflict was for a valid reason and how a request for continuance is typically handled. Mr. Wood only provided that he was in training, but not what type of training. The Department usually grants these types of requests, but if it comes in late and is already on the agenda, then it’s put before the Commission for approval.

The Commission was in consensus to continue this case to the next Commission meeting.

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These hearings concluded at 3:42 p.m.

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