

Proceedings of the Arizona Game and Fish
 Commission License Revocation and Civil
 Assessment Hearings
 Time Certain – 2:00 p.m.
 Friday, September 6, 2013
 Show Low City Council Chambers
 181 N. 9th Street
 Show Low, Arizona 85901

PRESENT: (Commission)

(Director's Staff)

Chairman John W. Harris
 Vice Chairman Robert E. Mansell
 Commissioner Kurt R. Davis
 Commissioner Edward "Pat" Madden

Director Larry D. Voyles
 Deputy Director Ty E. Gray
 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. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 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.

Name	Docket #	Count	Conviction
Matthew L. Scott	2013-0043	Count A:	Discharge Firearm Within ¼ Mile of Residence While Hunting
Rachel L. Farenbaugh	2013-0044	Count A:	Allow Use of Tag By Another
		Count B:	Possess Unlawfully Taken Wildlife (Mule Deer)
Nicholas J. Farenbaugh	2013-0045	Count A:	Take Wildlife Without Valid License/Tag (Mule Deer)
		Count B:	Use Tag of Another
William Vander Weyst	2013-0049	Count A:	Take Wrong Sex (Bull Elk)
Jason R. McNeil	2013-0050	Count C:	Apply for 2012 Resident Deer Tag By Fraud
Robert J. Small	2013-0056	Count C:	Take Wildlife Unlawful Method
		Count D:	Possession of Unlawfully Taken Wildlife (Owl)
		Count E:	Unlawful Possession of Wildlife (Raven/Owl Feathers)
Curtis J. Edelman	2013-0058	Count B:	Take During Closed Season (Mule Deer)
		Count D:	Possess Unlawfully Taken Wildlife (Mule Deer)
		Count E:	Possess Wildlife Without Tag Attached (Mule Deer)

Roll call was taken and the following were present: Nicholas Farenbaugh and William Weyst.

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: Harris moved and Davis seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous
4 to 0

* * * * *

Nicholas J. Farenbaugh
Docket # 2013-0045

Farenbaugh was found guilty by the Williams Justice Court for: Count A: Take wildlife without valid license/tag; and Count B: Use tag of another; and sentenced: Combined fine of \$1,120.00.

Case Officer was present via video teleconference.

Farenbaugh was present and addressed the Commission stating that what he did was wrong. He saw a buck and got buck fever. His wife recently passed away and he has two boys that are looking forward to going elk hunting this year.

Motion: Madden moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NICHOLAS J. FARENBAUGH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEAR; 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 NICHOLAS J. FARENBAUGH TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) MULE DEER BUCK; 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.

Commissioner Davis asked if Commissioner Madden would consider a 4-year revocation period with a revocation effective date of January 1, 2014.

Commissioner Madden stated that he would not amend the revocation period, but he would amend the effective date to January 1, 2014.

Amended Motion: Madden moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NICHOLAS J. FARENBAUGH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEAR; EFFECTIVE JANUARY 1, 2014; 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 NICHOLAS J. FARENBAUGH TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) MULE DEER BUCK; 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 - Harris, Madden
Nay - Mansell, Davis
Failed 2 to 2

Motion: Davis moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF NICHOLAS J. FARENBAUGH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; EFFECTIVE JANUARY 1, 2014; 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 NICHOLAS J. FARENBAUGH TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) MULE DEER BUCK; 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 - Harris, Davis, Madden
Nay - Mansell
Passed 3 to 1

Note: The Commission re-opened the case of Nicholas J. Farenbaugh on Saturday morning and took the following action:

Motion: Madden moved and Davis seconded THAT THE COMMISSION VOTE TO REDUCE THE CIVIL ASSESSMENT AMOUNT FOR NICHOLAS J. FARENBAUGH FROM \$1500 TO \$0.

Chairman Harris clarified that the three year revocation period that will begin in January 2014 will stand, but there will be no civil assessment.

Vote: Unanimous

4 to 0

* * * * *

Peter P. Vander Weyst
Docket # 2013-0049

Weyst was found guilty by the Snowflake Justice Court for: Count A: Take wrong sex (bull elk); and sentenced: Fined: \$306.20.

The Case Officer was present.

Weyst was present and addressed the Commission stating that he made a terrible mistake. He accidentally shot a bull elk instead of a cow elk and he should have self-reported. Instead, he chose to remove the elk from the field and harvest the meat, which was wrong. He was very cooperative with the officer, and he has shared his experience with many other hunting acquaintances and encouraged them to act legally and ethically.

Motion: Mansell moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF PETER P. VANDER WEYST TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) 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 PETER P. VANDER WEYST TO COLLECT THE AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) BULL 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
4 to 0

* * * * *

Matthew L. Scott
Docket # 2013-0043

Scott was found guilty by the Pinetop/Lakeside Justice Court for: Count A: Discharge firearm within ¼ mile of residence while hunting; and sentenced: Fined: \$100.00 to the Wildlife Theft Prevention Fund.

The Case Officer was present.

Scott was not present.

Motion: Davis moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MATTHEW L. SCOTT TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED UNTIL HE 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 MATTHEW L. SCOTT TO COLLECT THE AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) COW 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 – Harris, Davis, Madden
Nay - Mansell
Passed 3 to 1

* * * * *

Rachel L. Farenbaugh
Docket # 2013-0044

The Commission took no action on this case.

* * * * *

Jason R. McNeil
Docket # 2013-0050

McNeil was found guilty by the East Mesa Justice Court for: Count C: Apply for 2012 resident deer tag by fraud; and sentenced: Fined: \$291.15.

The Case Officer was present.

McNeil was not present.

Motion: Mansell moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JASON R. MCNEIL 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

* * * * *

Robert J. Small
Docket # 2013-0056

Small was found guilty by the Williams Justice Court for: Count A: Set trap within 30 feet of sight exposed bait; Count B: Use parts of non-game birds as bait; Count C: Take wildlife by unlawful methods; Count D: Possession of unlawfully taken wildlife; and, Count E: Unlawful possession of wildlife parts; and sentenced: Fined: \$2,160.00.

The Case Officer was present via video teleconference.

Small was not present.

Mr. Elms informed the Commission that Mr. Small sent a letter this week requesting that this matter be continued based on the fact that he has filed an appeal on his court case.

Motion: Davis moved and Madden seconded THAT THE COMMISSION VOTE TO GRANT ROBERT J. SMALL A CONTINUANCE UNTIL HIS APPEAL IS RESOLVED.

Vote: Aye - Harris, Davis, Madden
Nay - Mansell
Passed 3 to 1

* * * * *

Curtis J. Edelman
Docket # 2013-0058

Edelman was found guilty by the Seligman Justice Court for: Count B: Take during closed season; Count D: Possess unlawfully taken wildlife; and Count E: Possess wildlife without tag attached; and sentenced: Fined: \$493.00.

The Case Officer was present.

Edelman was not present, but sent a statement which Mr. Elms read into the record (attached).

Motion: Harris moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF CURTIS J. EDELMAN 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 CURTIS J. EDELMAN TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) 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
4 to 0

* * * * *

These hearings concluded at 2:45 p.m.

* * * * *

BEFORE THE ARIZONA GAME AND FISH COMMISSION

CURTIS J. EDELMAN) DOCKET NO.: 2013-0058
)
)
) **STATEMENT OF**
) **CURTIS J. EDELMAN**
)

COMMISSION MEMBERS:

I regret that I will not be able to personally attend my Hearing For License Revocation and/or Civil Assessment. As my attendance is not mandatory, I cannot afford to take the time from work as well as the expense of traveling to Show Low. Thank you for the opportunity to make a written statement and for considering my circumstances.

I understand that the matter of guilt or innocence of the alleged violation is not at issue before this Board, but merely whether the Board should revoke my license privileges and whether or not I should be assessed a civil penalty.

It probably goes without saying that I would prefer NOT to have my license(s) revoked and I would prefer NOT to be assessed a civil penalty in any amount, but I will assert that at this time regardless.

I am embarrassed by the amount of effort that had to be expended by the enforcement personnel involved in this case because I was not able to quickly tell the difference between a Mule Deer and an Elk. In the way of mitigating my mistake, I was properly licensed for Elk and it was Elk that I was hunting. Earlier in the day, I missed one golden opportunity to take an Elk because I was not paying attention at the critical moment and reacted too slowly. After kicking myself about that all day, I resolved that I would react much quicker when the next opportunity presented itself. When that time came, I did react much more quickly. Unfortunately, it was a mule deer, not an elk.

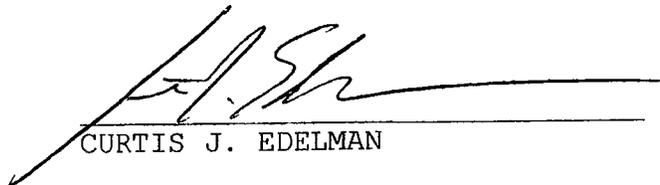
I knew almost immediately afterward that I had erred. In retrospect, it probably would have been better if I had reported the mistake. At the time, however, I was uncertain how to proceed and therefore treated the kill as any other responsible hunter would. When approached by the officers, I did not deny my error in the slightest.

I am thankful that the Arizona Game & Fish Officers heeded my request to donate the meat to a local charity. At least something good came from it.

In closing, I submit that I have never had any kind of similar occurrence in the past and I am certain that I never want to go through this kind of ordeal in the future. Being able to hunt means a great deal to me and I will always regret this huge mistake. I respect and appreciate the great job the Arizona Game and Fish Officers and Investigators did in this case and I regret that I had to be the subject of their tireless efforts.

Please do not revoke my hunting privileges. If I must be assessed a civil penalty, I ask that it be reduced and/or that I be allowed to make installment payments.

DATED this 22nd day of August, 2013.



CURTIS J. EDELMAN