

ARIZONA GAME AND FISH DEPARTMENT
5000 WEST CAREFREE HIGHWAY
PHOENIX, ARIZONA 85086

TRANSCRIPT OF INTERVIEW
RAY SCHWEINSBURG
January 25, 2010

Individuals present at the Interview on 1-25-2010:

Marty Fabritz, Arizona Game and Fish Department, Ombudsman,
Interviewer
Craig McMullen, Arizona Game and Fish Department, Wildlife
Manager, Interviewer
Ray Schweinsburg, Employee

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Transcribed By:
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No. 50430

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MR. MCMULLEN: We have been doing all of them, Ray -- or today is January 25th, Marty, Craig, Ray Schweinsburg. We have been doing all of them, I don't know, however many dozen we have done, interviews, but we have done all of them under Garrity Warning or Garrity Admonishment. Are you familiar with what Garrity is? Well, we have got --

MR. FABRITZ: Read that, and then we will put it in later. It is straightforward. Basically, it allows you to talk to us in an administrative fashion, and anything that you say can't be used against you criminally. It sounds rough, but that is how we have operated on this whole thing. We just needed to follow up with you.

MR. SCHWEINSBURG: What does this mean? I can talk to you guys or no?

MR. MCMULLEN: Yes.

MR. FABRITZ: Yeah, it does.

MR. SCHWEINSBURG: If I do what?

MR. FABRITZ: The essence of this is this paragraph says --

MR. MCMULLEN: Let's just do like we have done the whole time and just read it out loud.

MR. FABRITZ: Okay. All right, Ray. We are conducting an internal investigation involving matters that

1 will be discussed shortly. This is an Administrative
2 Investigation. You do not have the right to have legal
3 counsel present during the interview, nor will you be
4 advised of Constitutional Rights. You are ordered to
5 cooperate fully with this investigation. You are ordered to
6 respond completely and truthfully to all questions posed to
7 you during the investigation. Failure to respond completely
8 and truthfully to all questions will be considered
9 misconduct.

10 As set forth in Garrity versus New Jersey 385 US
11 493 and the line of cases which follow, any responses given
12 during this Administrative Investigation cannot be used
13 against you in a subsequent criminal investigation. You are
14 instructed not to discuss your interview or this
15 investigation with any Arizona Game and Fish Department
16 employee while the investigation is pending.

17 And the statement that you sign is that I have
18 read the above statements, and I understand the orders given
19 to me about this investigation. I understand my obligation
20 to cooperate fully with the investigation. I understand my
21 obligation to completely and truthfully answer every
22 question. I further understand that I have been ordered not
23 to discuss this investigation with any Game and Fish
24 Department employee while this investigation is pending.

25 Does that make sense? And I will give you a copy.

1 MR. SCHWEINSBURG: Do you know what the date is?

2 MR. MCMULLEN: Yeah, it is January 25th, 2010. I
3 have been writing nine.

4 MR. FABRITZ: I am still having problems with that
5 one, too. When you leave, I will get you a copy of this.

6 RAY SCHWEINSBURG,
7 pursuant to Garrity Warning, was examined and testified as
8 follows:

9 EXAMINATION

10 BY MR. MCMULLEN:

11 Q. So, basically, as you are well aware, Marty, Gary,
12 and I have been tasked with completing the internal
13 investigation, Administrative Investigation, into the
14 capture and recapture and eventual euthanization of Macho B.
15 And we are at the final stages of just pulling together a
16 few loose ends.

17 And your loose end relates to a recollection that
18 Bill Van Pelt had that sometime in the early days of 2009,
19 around January 2009 or something, about there, maybe early
20 February of 2009, that you had come to him and asked if
21 he -- if we did, in fact, have a permit that would cover the
22 Department for the capture of a jaguar. Do you recall going
23 to him for that?

24 A. Yes.

25 Q. Do you recall what it was that spurred you to want

1 to ask that question?

2 A. Sure. Thorry came in, asked me if we incidentally
3 or accidentally or whatever you want to say, catch a jaguar,
4 can we would put a radio collar on him? I didn't know the
5 answer. So I came down -- I was going to come down to. On
6 the way, I ran into Larry and Gary, and I asked them that
7 question. And they said, well, if we have a jaguar already
8 caught, it just makes sense to put the collar on him.

9 MR. FABRITZ: It does or doesn't?

10 THE WITNESS: Does. So -- but after that, I got
11 to thinking, well, I better go talk to Van Pelt. I was
12 going to go talk to Terry. Terry wasn't in, so I went and
13 talked to Van Pelt. Van Pelt told me, yeah, we are covered
14 under, what is it, the Work Plan, I think he said. The
15 Jaguar Work Plan, if there is an incidental take, we can put
16 a radio on him. So I thought okay.

17 Q. BY MR. MCMULLEN: So the question that came to you
18 was should we put a collar on if we caught one?

19 A. Yeah. I was ABC that day. I didn't know the
20 answer.

21 Q. ABC is Acting Branch Chief?

22 A. Yeah. I didn't know the answer.

23 Q. Yeah.

24 A. So I came down here. Both Larry and Gary said,
25 and there were other people there, I don't know who, but

1 they all said, yeah, it is kind of dumb if we don't do that,
2 because we already caught him. So in retrospect, probably
3 not the best idea. But then I went and checked with Bill to
4 make sure, and he said, yeah, we are covered under the --
5 whatever it was -- Work Plan, Jaguar Work Plan. I think
6 that's what the ESA document said, or the permit, or
7 something. I think he said Work Plan.

8 Q. Okay. That's really the only question we had. We
9 were wondering what sort of information input to you caused
10 you to want to go ask the question of Bill. Do you recall
11 anything else? Is there anything -- any other discussion?

12 A. No. No. At that time, it seemed like a good
13 idea --

14 Q. Yeah.

15 A. -- to everybody. From the highest to the lowest.

16 Q. Yeah.

17 A. But I think Larry said, well, I didn't even know
18 that. He asked me the question, is it listed? I said, I
19 don't know if it is listed or not. He didn't know if it was
20 listed or not. So I went to check on that just so that --
21 and when Bill told me, yes, we are covered under the plan,
22 no harm, no foul.

23 Q. You got the answer then?

24 A. Yeah.

25 Q. Okay. Was there any other thing that had we --

1 you probably might have anticipated at some point we would
2 ask you to come and talk to us. I don't know if you did or
3 not. That is an assumption on my part?

4 A. I figured you guys had already written me off as
5 involved in this.

6 Q. During the course of the time when you were under
7 the understanding that the investigation was going on, was
8 there anything that was floating around in the back of your
9 mind that you thought you would need to remember to tell us
10 or anything like that?

11 A. Well, I would like to -- I never went and checked
12 what the Jaguar Plan said. Does the Jaguar Plan cover us,
13 Work Plan?

14 Q. Well, we are working that out. We believe it
15 does. We believe it did, and we had communication with the
16 Fish and Wildlife Service after the capture, original
17 capture of Macho B, that confirmed that we did.

18 A. So this whole thing to me is a mystery, because I
19 didn't go and get the plan and read it, but Bill, I trust
20 Bill to know what he's talking about.

21 Q. Sure. Is there anything that you can think of
22 that we might need to know or should know about the original
23 capture of Macho B or recapture?

24 A. No.

25 Q. Yeah.

1 A. The whole thing to me seems strange because right
2 after Macho B was captured, everything -- everyone was
3 taking credit for it. It was in the newspapers. Everyone
4 was saying, oh, wonderful. Ra-ra, we did a good thing.
5 Macho B died. Then everyone was saying this was a bad idea.
6 But because -- had Macho B lived, it seems to me that the
7 issue is not catching Macho B, because had he lived, nobody
8 would have -- Fish and Wildlife, nobody would have
9 questioned what we were doing, nobody.

10 So it is kind of dumb to me to be questioning
11 whether the issue is, in my mind, capturing Macho B. The
12 issue really was after he was captured, was he handled
13 properly? And that's a different -- but the capture thing,
14 had he lived, we would look like --

15 Q. We could be gleaning information off him today?

16 A. And the border, you know, I am trying to work on
17 the border issues, and geez, that would have been so
18 valuable. It is just --

19 Q. It sounds like that was the extent of your
20 knowledge or any discussions prior to capture?

21 A. That's mine, what I know about it, and I was --
22 you know, I had to get an answer that day.

23 Q. Yeah.

24 MR. FABRITZ: Well, you jumped through a couple
25 hoops to get the best answer you could. So you did a good

1 job.

2 THE WITNESS: That's what I did. I just think, it
3 seems to me, logically, that the capture is not the issue
4 because had he lived, we would be looking good as a
5 Department. So I don't know whether that helps or doesn't
6 help. That is just my reactional thinking for it.

7 MR. MCMULLEN: Okey doke. I think that is good.
8 That is all we had, Ray. Sorry to interrupt your Branch
9 meeting.

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I, Tammy Gillett, do hereby certify that the foregoing 9 pages were transcribed by me; that I was then and there a Certified Reporter in and for the County of Maricopa, State of Arizona, and that the foregoing pages contain a full, true, and accurate transcript of all the digitally recorded and/or taped proceedings, all to the best of my skill and ability.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome.

DATED at Phoenix, Arizona, this 4th day of March, 2010.

TAMMY GILLETT
Certified Reporter
No. 50430

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