

Proceedings of the Arizona Game and Fish
 Commission License Revocation and Civil
 Assessment Hearings
 Time Certain – 10:00 a.m.
 Friday, August 5, 2016
 Little America Hotel
 2515 E. Butler Ave.
 Flagstaff, Arizona 86004

PRESENT: (Commission)

(Director’s Staff)

Chairman Kurt R. Davis
 Commissioner Edward “Pat” Madden
 Commissioner James R. Ammons
 Commissioner James S. Zieler

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

Commissioner Eric Sparks was not present.

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
Rex Yellow	2016-0034	Count A: Count B:	Possess unlawfully taken wildlife (Antelope) Take wildlife without valid license (Antelope)
Dennis McKinnis	2016-0053	Count A:	Obtain lifetime hunting license by fraud
Michael A. Sardegna	2016-0059	Count A: Count D:	Take wildlife without a license (Mule deer doe) Possess/transport unlawfully taken wildlife (Mule deer doe)
Dennis Trujillo	2016-0061	Count A: Count B: Count D:	Use elk tag of another Attached Elk Tag Issued to Another Possess unlawfully taken cow elk
Sylvia A. Morales	2016-0062	Count B:	Allow tag to be possessed by another
Dennis McNaughton	2016-0064	Count A:	Obtain 2014 resident fishing license by misrepresentation Citation A14612
John G. Smith	2016-0065	Count A:	Obtain 2015 resident fishing license by misrepresentation Citation A06979

Michael James 2016-0072 Count A: Obtain 2008 hunt/fish license by
misrepresentation

Roll call was taken and the following were present: Dennis McKinnis, Dennis Trujillo, Sylvia A. Morales and Dennis McNaughton.

The case of Michael James was continued to a future Commission meeting.

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

Vote: Unanimous
4 to 0
Sparks not present

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Douglas McKinnis
Docket # 2016-0053

McKinnis was found guilty by the Desert Ridge Justice Court for Count A: Obtain lifetime hunting license by fraud; and sentenced: Fined \$309.00 and restitution of \$48.00.

McKinnis was present and addressed the Commission stating that he was living in Arizona for six months when he bought his license. His mistake was purchasing the Oregon license.

Commissioner Davis confirmed with Mr. McKinnis that he was obtaining resident licenses in Oregon for multiple years and that he did not file his taxes in Arizona.

Commissioner Zieler confirmed with Mr. McKinnis that he purchased resident hunting and fishing licenses in Oregon in 2016 and 2015.

Commissioner Davis further discussed with Mr. McKinnis how it came about that he thought he could purchase a lifetime license.

Case Officer Nemlowill was present and stated that during the course of her investigation she struggled to document any time that either of the McKinnis' had spent in Arizona. She had to look at his benefits of residency in another state. There was a resident license purchased in Oregon, his vehicles were registered in Oregon, his driver's license was maintained in Oregon. Oregon has no sales tax, so if Mr. McKinnis had been in Arizona for six months and complied with Arizona law, he would have transferred his vehicle registrations to Arizona and would have

been required to pay sales tax to the State of Arizona. The homeowners of the resident address used by Mr. McKinnis stated that they didn't know the McKinnis' were using their tenants address to obtain licenses and they only knew of Douglas McKinnis staying with one of their tenants for a couple of weeks.

Motion: Zieler moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DOUGLAS MCKINNIS TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FOUR (4) 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.

Commissioner Davis discussed with Mr. Odenkirk and confirmed that the revocation includes the surrender of Mr. McKinnis' lifetime license and the surrender of what he paid for it, and that after the revocation period, Mr. McKinnis can purchase a new lifetime license with the proper residency requirements.

Commissioner Davis asked Commissioners Zieler and Ammons if they would consider a friendly amendment to a two year revocation period.

Commissioner Zieler stated he could not accept an amendment for a two year revocation period, but would accept an amendment for a three year revocation.

Commissioner Ammons, as the seconder of the motion, did not accept the two or three year amendments, so the motion stood at a four year revocation period.

Vote: Aye - Madden, Ammons, Zieler
Nay - Davis
Passed 3 to 1
Sparks not present

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The cases of Dennis Trujillo and Sylvia Morales were addressed by the Commission at the same time.

Dennis W. Trujillo
Docket # 2016-0061

Trujillo was found guilty by the Flagstaff Justice Court for Count A: Use elk permit/tag of another; Count B: Attached elk tag issued to another, and Count D: Possess unlawfully taken cow elk; and sentenced: Fined \$1068.00.

Sylvia A. Morales
Docket # 2016-0062

Morales was found guilty by the Flagstaff Justice Court for Count B: Allow tag to be possessed by another; and sentenced: Fined \$254.00.

Trujillo and Morales were present and addressed the Commission. Mr. Trujillo stated that he was present to take full responsibility for his actions. Ms. Morales stated that she had left her signed tag in the trailer because she was coming back on the weekend, which is what she has done in the past. She did not allow anyone to use her tag. Ms. Morales requested that the Commission not revoke her fishing license because she works at Bass Pro and teaches fishing to women and children.

Case Officer Clay was present and stated that his report is fairly accurate and undisputed by Mr. Trujillo and Ms. Morales, and that investigative information from prior years led to this project being put in place. The results of the investigation went down as expected and Mr. Trujillo put Ms. Morales' tag on his elk.

Commissioner Zieler discussed with Officer Clay a previous contact he had with Mr. Trujillo in 2013, in which Mr. Trujillo had Ms. Morales tag with him and stated that Ms. Morales would be joining him that evening.

Motion: Ammons moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS W. TRUJILLO 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 DENNIS W. TRUJILLO 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: Unanimous
4 to 0
Sparks not present

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF SYLVIA A. MORALES TO HUNT 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: Aye - Madden, Ammons, Zieler
Nay - Davis
Passed 3 to 1
Sparks not present

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Dennis J. McNaughton

Docket # 2016-0064

McNaughton was found guilty by the Desert Ridge Justice Court for Count A: Obtain 2014 resident fishing license by misrepresentation; and sentenced: Fined \$75.00 and ordered to pay restitution of \$47.75.

McNaughton was present and addressed the Commission stating that he purchased a house in Arizona and bought his residence license six months later. His fishing license in Oregon was given to him in 2004, a pioneer license, because he had lived there all of his life. He was not trying to cheat Arizona by having two licenses. He pled guilty because he was ill and needed to get back to Oregon.

Case Officer Nemlowill addressed the Commission and stated the Mr. McNaughton had to re-affirm his residency in Oregon on an annual basis for his Oregon pioneer license, but in his behalf, Officer Nemlowill stated that Mr. McNaughton did not try to dodge his responsibility with the court and took care of his case, which doesn't often happen with non-residency cases.

Motion: Zieler moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS J. MCNAUGHTON TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER UNTIL HE COMPLETES THE HUNTER EDUCATION COURSE, AND PROVIDES 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
Sparks not present

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Rex R. Yellow

Docket # 2016-0034

Yellow was found guilty by the Flagstaff Justice Court for Count A: Possess unlawfully taken wildlife (antelope); and Count B: Take wildlife without a valid license; and sentenced: Combined fined of \$700.00.

Yellow was not present.

Case Officer Fabian was present and answered questions for the Commission.

Commissioner Zieler confirmed with Officer Fabian that there was no evidence that Mr. Yellow had ever obtained an Arizona driver's license.

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF REX R. YELLOW 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 REX R. YELLOW TO COLLECT THE AMOUNT OF \$1,500.00 FOR THE LOSS OF ONE (1) 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: Unanimous

4 to 0

Sparks not present

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Michael A. Sardegna

Docket # 2016-0059

Sardegna was found guilty by the Green Valley Justice Court for Count A: Take wildlife without a license (mule deer doe); Count D: Possess/transport unlawfully taken wildlife; and sentenced: Fined: \$600.00.

Sardegna was not present.

Motion: Madden moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MICHAEL A. SARDEGNA 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 **MICHAEL A. SARDEGNA** 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
Sparks not present

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John G. Smith
Docket # 2016-0065

Smith was found guilty by the Desert Ridge Justice Court for Citation A14612, Count A: Obtain 2015 resident fishing license by misrepresentation; and sentenced: Fined: \$200.00 and ordered to pay restitution of \$36.00.

Smith was not present.

Case Officer Nemlowill was present and answered questions for the Commission. Officer Nemlowill stated that Mr. Smith was a resident of Arizona and after he moved he continued to buy resident fishing licenses until his home in Arizona was sold.

Commissioner Davis confirmed with Officer Nemlowill that there was a point in time when Mr. Smith was buying resident fishing licenses at the same time in both Arizona and Oregon.

Commissioner Zieler confirmed with Officer Nemlowill that the licenses in both states were for fishing only and not for hunting.

Motion: Madden moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **JOHN G. SMITH** 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; 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
Sparks not present

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These hearings concluded at 11:12 p.m.

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