



APPEAL NO. 87/02 W'LIFE

JUDGEMENT

Appeal under Section 183 of the Wildlife Act against an order of the Deputy Director of Wildlife.

APPELLANT

Kevin L. Halverson
Williams Lake, B.C.

APPEAL UNDER THE WILDLIFE ACT. SECTION #103

BY K. L. HALVERSON

DETAILS

Appeal under Section 103 of the Wildlife Act against an order of the Deputy Director of Wildlife under which, firstly the Appellant is required to successfully repeat a C.O.R.E program before being eligible to hunt, and secondly his hunting licence is suspended for two years from the date of conviction.

JUDGEMENT

The appeal under Section 103 of the Wildlife Act was heard in Williams Lake on 6 May, 1987.

Panel member was: I. A. Hayward, Chairman

The court recorder was: Joan Godfrey

The Crown was represented by: L. Fisher, Esq.

The appellant was: Kevin L. Halverson

SUMMARY

In his evidence in chief the appellant made three points; firstly that having successfully completed a C.O.R.E program at high school, he felt it unnecessary to repeat one. Secondly, that the period of licence suspension was excessive.

In support of these assertions he stated that he had sought and has been given erroneous advice from the police regarding the recovery of the wounded deer. Further that his subsequent actions stemming from this advice lead to him being apprehended by conservation officers.

Thirdly, that the prosecutor and the conservation officers hated him, i.e. were persecuting him.

During his cross examination Mr. Fisher entered four exhibits:

- EXHIBIT A: Statement given by Mr. Halverson
November 16, 1984.
- EXHIBIT B: Mr. Halverson's Testimony at Trial.
- EXHIBIT C: Reasons for Judgement of Judge
Barnett.
- EXHIBIT D: Four Photographs of Deer Carcass

Under cross examination, the appellant stated that he had shot and wounded the deer at about 10.00 in the morning. He and his companion then sat down and had coffee and waited for the deer to lie down and stiffen up so that it could readily be killed. They then tracked the deer but everytime they came close it moved on a short distance.

At about 1.00 p.m. their pick-up became stuck in a field in the snow and it took three hours to either try to dig it out or to fetch help to have it pulled out. During this period they lost their remaining ammunition.

At this point in the late afternoon or early evening, they returned home for food and a change of clothing. The conservation office was closed so he called the police and was allegedly advised to despatch the deer. So, accompanied by his brother he returned to find the deer at about 9.00 p.m. and killed it with 2 shots. They field dressed the deer but did not recover it that night.

Under cross examination by the Chairman the appellant stated that he had previously shot one deer when he was 21, that between them they had one rifle and a hunting knife with a 3" blade. They were able to approach to within 20 yards of the wounded deer before it moved on.

The crown's main witness was Conservation Officer Schendel who in his examination in chief stated that he and another conservation officer were invited to The Stone Ranch the following day to collect a deer carcass that had been pulled out of the bush with a saddle horse.

Shortly afterwards they met the appellant and indicated to him that they were investigating the killing of a deer at night. Initially the appellant refused to show the officers where the deer had been shot; however, later he gave a general indication of where he had shot the animal.

The witness gave details of attempting to find spent shells, of back tracking the animal, and of the many places where the wounded deer had lain down in travelling approximately 3/4 mile from the point at which it had been wounded to where it was ultimately killed.

He went on to give details of the condition of the wounded deer and stated that he was convinced that with a near severed foreleg and a disassociated rear leg the deer could not have moved. He considered that these wounds were from a magnum rifle. The two wounds in the rib cage ultimately killed the animal.

He completed his evidence by stating that under the snow conditions that prevailed, a hunter having waited 15-20 minutes for the wounded animal to stiffen up, could easily approach to within 30 yards. Finally he stated that he had not met the appellant prior to meeting him on the day of the investigation at The Stone Ranch.

Under cross examination he stated he could neither recall seeing vehicle tracks in the field where the deer was shot nor where the vehicle became stuck. However, he did not enter the field and in any event he was looking for man's tracks.

He could not recall a conversation with the appellant concerning where the original shot was fired and agreed that the two shots that killed the deer might have been of a smaller calibre. However no projectile was recovered from the carcass.

Under questioning by the Chairman, he estimated that the ranch hand pulled the deer approximately 1/4 mile to The Stone Ranch from the place where it was killed and that the wounded deer had travelled 3/4 mile. He confirmed a number of lays along the deer's route, some only 5 feet apart.

The second crown witness was Conservation Officer Slavens who gave evidence that he had not met the appellant prior to the investigation and that the driving time from Stone's Ranch to Williams Lake was 30 minutes.

There was no further detail of significance arising from cross examination by the appellant or the Chairman.

In his summing up the crown made extensive use of the exhibits to support their argument that there were inconsistencies in evidence given by the appellant, that he was uncooperative, that he failed to kill the deer quickly and humanely, and ultimately did so after hunting hours.

The appellant in his summing up argued that he had taken all reasonable opportunities to kill the deer, was concerned about it and accordingly went back after dark in order to end its misery.

JUDGEMENT

While I have some difficulty with the appellant's evidence concerning his vehicle being stuck in a field and the amount of time taken to retrieve it, I am prepared to give him the benefit of the doubt and accept his account of these events.

Having done so I find that he still had the opportunity, the ammunition and the time to kill the wounded deer before 1.00 p.m. when his vehicle became immobilized. In failing to do so then he ignored one of the cardinal rules of hunting - a humane and quick kill; moreover, he started a chain of events which ultimately lead him to an unlawful act - hunting after hours.

I also note that he was not as cooperative with the Conservation Officers as he should have been and moreover, that there is no evidence whatsoever to support his contention that they hate him, i.e. are persecuting him.

I concur with the Deputy Director that the appellant would benefit from further hunting education and I believe that the period of suspension of the appellant's licence is not unreasonable.

Accordingly, the appeal is denied.



Ian A. Hayward, P.Eng.
Chairman.