

CASE REPORT

NO. C 154033, 22

Violation Class	Plea (Circle)	COURT DISPOSITION					Fine	Cost	Jail
		Found (Circle)							
1. 2	G NG NC	G	NG	DP	DS	DISM	\$	\$	
2.	G NG NC	G	NG	DP	DS	DISM	\$	\$	
3.	G NG NC	G	NG	DP	DS	DISM	\$	\$	
4.	G NG NC	G	NG	DP	DS	DISM	\$	\$	

JUDGE	TOTAL(S)
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Assisted by:	Evidence seized: Desc/Dispo	Subject Armed	Case Initiated
Jim Aragon, CDOW - Salida Ethel (Jackie) Bertschy - CR 260; Johnny Turner - Nathrop	Rem. Mod. 700 black synthetic stocked rifle, Cal. 7 mm magnum, Serial # E6225866 with scope; Rem. Mod. 700 .30-06 wood-stocked rifle, Serial # A3200825 with scope; Kept in D.O.W. safe; 7 mm magnum shell casing; Two 7 mm magnum live rounds; 2 - .30-06 spent casings.	Yes X No	Patrol Citizen X OGT Other

Other parties involved

1. William D. Dvorak	DOB: 09/28/49	Cite No. C15-4022	Off. R. Dobson (793)
2.	DOB:	Cite No.	Off.
3.	DOB:	Cite No.	Off.
4.	DOB:	Cite No.	Off.

NARRATIVE:

About 4:30 PM, 12/29/06, I got a call from Ethel Bertschy at my home. She was quite upset, requesting me to respond immediately to her home, as some hunters were shooting on her property near her house, and she had not given anyone permission to hunt. As I was putting on my uniform, she called again, saying that she could see two hunters a couple of hundred yards east of her house, and that they definitely had an elk down. She called a couple of more times while I was responding giving me updates on the hunters, saying that one of them was with the elk, and another was following the herd to the south. Later, she said that she was now seeing another man without blaze orange hunting clothes along a gully to the SE of where the elk was laying. She said that if I hurried, I could catch the hunters red-handed. She described hearing 5 shots spread out, a single shot at first, then two shots very close together a short time later, then two more shots spaced out as the herd moved to the south. I asked her if she could go out and try to get a vehicle description and license plate of any vehicles in the area, but she didn't feel comfortable doing that. I asked if it was possible that the hunters could be folks that she had given permission to hunt in the past, who might have felt that they still had permission. She said that she didn't think so. I mentioned Bill Dvorak as a possibility, since I knew that he had a license for the private land only season in progress, and lived nearby. She said that it had better not be him, as he had asked to hunt on the property the year before, and she had told him "no."

As I was driving north on CR 260, south of the Bertschy residence, I found where a large herd of elk had crossed out of the Bertschy ranch, crossing the road into a field owned by Chuck Keeler. I didn't stop to look at the tracks at this point. It was pretty dark by the time I got to the Bertschy house, and I could see a vehicle parked in the driveway with the engine running, and the lights on. I passed the house, and drove to the end of County Rd. 260 looking for other vehicles, and then returned after finding none. As I pulled behind the vehicle parked there, I recognized Bill Dvorak's white crew cab pick-up. I went to the house, where I met Ethel talking with Bill. I know Bill very well, as he taught me how to kayak nearly 20 years earlier, and I stayed at his home for nearly a week during that time. I took a several day Swiftwater Rescue Training Course from him at one point, and I have routinely run into him and checked him since. I had also given him the name of a landowner requesting hunters because of elk problems just a couple of days earlier. I asked what was going on, and Bill said that he had screwed up, and just gone a little crazy when he had seen the big herd of elk. I asked who the other person was who was with him, and he said that it was "Mallett." I know that he and Jerry Mallett are very good friends. Jokingly, I said, "Oh good, I haven't written a County Commissioner a ticket in a long time." I have also known Jerry for many years, and routinely work with him as a County Commissioner. I commented that I had seen Jerry's wife's name on the list of hunters with licenses for the current season, but that I wasn't aware that Jerry had a license. Bill replied that Jerry wasn't hunting, that he had just come along with him. Ethel told me that they had discussed the situation, and she had decided not to press charges for the trespass, since Bill was a neighbor. She apologized for calling me out, then changing her mind. Bill was also very apologetic.

I told them, as long as I was already there, I would go ahead and check the elk Bill had down. I told him that I

ATTACHMENT CITATION HERE

DEFENDANT
LAST NAME FIRST
MALLETT, Jerald G.

would just follow him to it. As we left, he told me that he had tried to contact Ethel 3 times to see if he could hunt on her property, but hadn't been able to get in touch with her. He said that he hadn't been sure that she was still living on the property.

I followed him north on CR 260 to a gate a couple of hundred yards north of the house. We went through this gate, and traveled east to the area Ethel had described to me earlier. Bill had trouble finding the elk for awhile, and we circled around in the field a couple of times before he spotted it. He also kept calling for Jerry who he said should be with the elk. Bill mentioned that he had seen Ethel's nephew, Johnny, on CR 260 while he had been following the herd, and had gotten a ride from him back to his truck which they had parked on Hwy. 285. I asked if Jerry might have walked to the Bertschy home when he saw Bill's truck parked there so long. Bill said that he didn't think so, and mentioned that he had called Jerry on his cell phone as we were heading out to the elk, but had been unable to get him. I noticed that the elk was only partially gutted, basically just with the hide partially cut open in the neck and sternum area. There was one set of human footprints coming to the elk from the SE, and one set of tracks leaving, heading to the south. As I was shining my light around looking for Jerry, I illuminated a bush about 20 yards north of the elk along a fence-line. Bill said, "There's his hat." There was a blaze orange hunting hat in this bush. I walked to the bush and also found the wood-stocked .30-06 rifle pushed well back into the bush. The hat was on the top of the barrel. I pulled the gun out and opened the action, finding it empty. I asked Bill whose gun this was, and he said it was his. I suspected this was not true, as I had been under the impression that Bill had pursued the herd of elk to the south, and I doubted that he did it without a gun. I suspected that this was Jerry Mallett's gun, and asked Bill why he would have given his gun to Jerry. He said he had given it to him to finish off the elk if that was needed. I asked to see inside Bill's vehicle, and when Bill opened the driver's side door, I could see another rifle there. I examined it, finding it to be a black, synthetic stocked rifle in 7mm magnum caliber. There were two live rounds in the magazine. I asked whose gun this was, and Bill told me that it was just a spare which he had brought along, that he had left in the truck.

About that time I saw movement behind my truck, and called out to see if it was Jerry. He replied that it was, and came out from behind the truck. He had on a reversible blaze orange hunting jacket, which had the orange turned to the inside. I carried the .30-06 rifle to him, and asked if this was his gun. He said that it was. I asked him why he had been carrying a rifle, and he said that he had just brought it along. I asked if he had a hunting license, and he said that he had a small game hunting license. I asked to see it, and he opened his wallet, and started to pull out a license, then said that it was the wrong one, and pushed it back. He then produced a small game hunting license. I asked to see the other license, and he gave it to me. It was a Unit 481 private land only license, the next unit to the north. As I pointed this out, he said that he normally applied for Unit 56, but that he had been doing a lot of work with Lee Rooks, on a Ranch Land Project, and that Lee had invited him to hunt on his ranch, so he had put in for that unit this year. I noted that I had seen his wife's name on the list of hunters for Unit 56, and he said that she had killed an elk the previous day. He insisted that he had not been hunting elk with Bill, but had only been along with Bill while he hunted. I told him that I didn't believe him, and that if he had anything to tell me, he had better tell me now, not after I found out otherwise. He repeated that he had only been accompanying Bill. I said, "OK", and started to walk away, when he stopped me, and admitted that he had fired one shot. I asked him to explain, and he said that Bill had shot at the elk and missed the first time. He had shot again, obviously hitting the elk. Jerry said that he had headed for this elk, and as he was walking up on it, it was still kicking, so he had shot one time at the head to just finish the elk off.

I told the men to go ahead and start gutting the elk, and that I would join them shortly. As they started, I went to the vehicle and called my supervisor, Jim Aragon, asking him to come and assist me, explaining the situation. I then joined the men and assisted them in gutting the elk. There was an entry wound on the right side of the elk, with the bullet going through the shoulder, breaking the shoulder bone, passing into the chest cavity. The lung area in front of the diaphragm was full of stomach contents, which usually means that the animal had been shot through the stomach, with the bullet carrying stomach contents forward into the chest cavity. There was an exit wound on the left side of the chest, across from the entry wound, with obvious stomach contents exiting this wound. I looked briefly for a bullet, but found none. There was a wound channel through both lungs, which were full of blood. This animal would have only traveled a short distance, and that with difficulty due to the broken shoulder, and would have died very quickly.

I told the men that I needed them to walk me through what had happened. We followed Jerry's footprints to the southeast about 50 yards to an arroyo. He said that as he had come up out of this arroyo, he had seen the elk kicking, and it was at this point that he had shot. He insisted that he had only shot once, but that I might find two shell casings, as he had been to the shooting range the day before, and after shooting had left an empty casing in the chamber. When he had tried to shoot the elk, he had ejected this spent casing first, before shooting a live round. He said this was the only bullet he had with him, and that his other bullets were in the vehicle. We continued following the tracks down and up the opposite side of the arroyo, to where Bill's tracks took off to the south. (About this time, I reached into my pocket for some gloves, and felt my micro-cassette recorder in the pocket. I turned it on and recorded the rest of this contact until I left to follow Bill's tracks.) I had them show me the bottoms of their boots, and Bill's soles had round pegs on the inner part of the sole, while Jerry's sole were a typical Vibram style tread. These were the tracks which had gone to the elk, and crossed the arroyo. Bill's tracks split off at the top of the arroyo and went south. We followed both sets of tracks up the hill another 50 yards or so to where Bill had obviously sat down in the snow. They told me that it was at this point that Bill had shot at the elk. Jerry's tracks were right next to Bill's, just a foot or two

to the south. I looked around for shell casings, not finding any in the snow, and asked Bill if he had picked up his brass. He said that he had. I asked to see them, and he pulled one empty casing out of his pocket. I examined it, finding it a 7 mm magnum casing. I seized this casing. I followed their tracks another 20 yards or so up the hill to where they had crested the hill. From there, the tracks led east toward the highway, which was only about 50 yards east.

We returned to the elk, and while we were doing so, I called Jim Aragon, and asked him to stop at our warehouse and pick up a metal detector. After further examining the wounds on the elk, I seized both firearms putting them into my vehicle. I told the men that they might as well stay warm in their truck while I looked around a little. They got into the truck. (I turned off the tape at this point.) I returned to Bill's tracks and followed them to the south. His tracks paralleled the tracks of the running herd of elk. A couple of times, I found places where he had obviously knelt down in the snow. As I was following these tracks, Ethel called me, telling me that she had talked with her nephew Johnny Turner. She said that she had called him to come to the area after I had asked her to get a vehicle description, and he had driven down the road and seen Bill out in the field kneeling down. Bill had walked out to him on the road and they had then gone down to where the elk crossed the road. At this point, they had found blood in the road. She advised that I might want to check out that area for another wounded elk. I followed Bill's tracks out to the road, and then went south to where the elk had crossed the road. It had snowed a half inch or so since I got to the area, and I couldn't see any blood in the road. Jim Aragon arrived at this time, and he went to the Dvorak vehicle while I trailed the herd of elk back to them.

Once back (I turned on the tape recorder), I asked Bill if he had fired any shots at the elk as he had followed them to the south. He said that he didn't believe he had. I told him that I had found a couple of spots where he had knelt down, and thought he might have shot from those locations. He said that he had just been watching the elk at those places. I asked if he was aware that there had been another wounded elk in the herd. He said that he wasn't. I mentioned that Ethel had called me and told me that he and Johnny had found blood in the road where the elk had crossed. He then admitted that he had seen a few drops of blood at that point, but that was the only place he had seen blood. I had Jerry come to my vehicle, where I explained how I had been called to the area. I told him that I had found his gun and hat hidden in the bush, that I suspected that we were going to find his shell casings up on the hill. He agreed. I told him that it appeared to me that he had been hunting, and that he didn't have a license. He said, "I know it." I told him that if we found a bullet from his gun in the elk that he was also looking at illegal take of an elk. He said, "Sure." I advised him that it appeared that there had been a violation of the law, and that I needed to advise him of his rights, and that after that it would be up to him whether he wanted to talk with me or not. I did so off a card, and he acknowledged his rights and agreed to talk with me. He said that what had happened was what he had told me, that he had taken a shot at an elk, but missed, that he had walked over to an elk that was down and started to gut it. Bill had walked back to get the vehicle, but when he didn't show up, he (Jerry) had wandered around for awhile looking for the vehicle, missing the draw to the truck, and then returning. I asked him if he wandered down toward the gully where Ethel had seen someone walking around without orange. He said that had been him, that he had been hunting with orange, but that after leaving the elk, he had turned his orange hunting coat around so that the orange was inside. I asked him if he had been trying to fill his wife's tag for her, and he said that she had filled her license the day before. His intention had been to hunt up north on the Rooks ranch with his 481 license later on. I asked him if the elk laying in front of us was the elk he had shot at. He said that it was. He said that Bill had wounded the elk, basically killing it, and that as he walked up to it, he could just see the head, and he had shot at the elk one time. I said that it appeared to me that the elk may have two bullet wounds in the body area, and he admitted that could have been the case. I told him that I appreciated his honesty, and willingness to come clean, and that I would take that into consideration in deciding what to do, but that I didn't want to say what was going to happen until I had further investigated. I noted that they definitely had wounded another elk, and that it appeared that Bill had been pursuing this elk. He repeated about having a spent case in his gun from shooting at the range the day before, having to eject it, and then firing one time at the elk which was down, then having an empty rifle. I asked why he had stashed his gun and hat in the bush, and he said that he had wanted to go back to the truck, and he didn't want to carry it back with him. I recounted the finding of the gun, and that Bill had told me that it was his gun. Jerry said that Bill had told him that he had covered for him. I told him that fortunately, I hadn't found any more dead elk yet, as if I had, the case could get much more interesting. Jerry said that after they had shot, as the herd left, a couple of elk had lagged behind. Bill had shot at one of these elk which was standing broadside. He had missed the first time, but then hit the elk the second time. I asked how many times Bill had shot, and he said that he wasn't sure. I noted that Ethel had heard 5 shots, and Jerry said that he had only fired once, and he wasn't sure how many times Bill had shot. I told him that we would complete our investigation, that I would talk it over with my boss, and we would get back to them when we decided what to do. (My tape recorder ran out of tape about this point.) We got out of my truck, and told the men that they might as well go to the Dvorak home and get some supper while we continued to investigate, and we would stop by and visit with them when we were finished. They left.

Jim and I went over the scene with the metal detector. We followed Jerry's footprints back to where he said he had shot at the elk one time as he was walking up to it. We found no shell casings along this trail at any point until we got to the spot where Bill had obviously sat down to fire. There we found two spent .30-06 casings in the snow just to the right of Jerry's footprints, where Bill had been sitting. We found no 7 mm magnum casings. We followed Bill's footprints to the south after the two men separated, and found no more casings along this trail after following them for

a couple hundred yards. It was obvious to us that Jerry had lied about where he had shot from, that he had been shooting at the herd of elk at the same time and location that Bill had been shooting. It also appeared that Bill had picked up his brass as he said, since we found no other casings from his gun other than the one he had taken out of his pocket. We thoroughly examined the elk carcass manually and with the metal detector, finally concluding that it had only been shot once, right through the chest, but that the bullet had severed the esophagus on the way through the chest, and that this had caused the spillage of stomach contents into the chest cavity. We found several small fragments of a bullet where the bullet had exited the carcass. We loaded this elk and went to the Dvorak home. (I turned over my tape and started the recorder.)

Bill invited us in. I told Jerry that we had a couple of more questions for him. We asked him to come outside and visit with us while we asked those questions and filled him in on where we were on the case. I reminded him that he was still under oath, and he nodded affirmation. I told him about finding the two shell cartridges for his gun, but noted that these cartridges had not been found where Jerry had said he had fired, but rather back up on the hill where he had said that only Bill had fired. He now changed his story, and admitted that he may have fired from this location. I told him that he either did or didn't, and he then admitted that he had fired from this location. He also admitted that he may have fired two shots, not just one as he had said earlier. I told him that if that had been the case, his story about merely shooting at a wounded elk which was already down didn't hold true. He admitted that he had been trying to shoot an elk at that point. I told him that we had recovered some bullet fragments in the elk and that we would have to have these tested to see if we could determine which gun had fired them, but that it appeared to us that he had fired at this elk, and then gone straight to it, as if he knew that he had hit this elk. He said that he didn't know who had hit this elk, that he had gone to it because it had been the only one he could see down. Jim asked why Bill had gone after the herd, and Jerry said that there had been two elk lagging behind the herd, that they had gotten one of them, and that Bill had gone after the herd in case they may have wounded this other elk. He admitted that they thought they might have wounded this other elk, that he had gone to the one he could see down to start gutting it, while Bill pursued the herd. He re-iterated that there were two elk way behind the rest of the herd, that Bill had shot at and hit one of these, and that he may have shot at these elk too. He admitted going straight to the elk which was down, because he could see it, and wanted to make sure it was dead. I asked how far this elk had traveled after being shot, and he said that it didn't go far at all, maybe 20 feet. I asked why he thought that Bill had hit this elk, and he said that Bill was a better shot than he was, and it had just appeared when he fired that he had hit this elk, noting a couple of times that it had "buckled". He said that Bill had fired twice at this location, missing the first time, then hitting the second time. He said that he wasn't sure if Bill had fired any more times after they had separated, as he had been excited about the elk that was down, had gone straight to it, cut its throat and started gutting it. He said that Bill had gone after the herd because he may have thought that he had also wounded this other elk. I asked Jerry to explain why they had each gone into the field carrying guns, wearing blaze orange hunting clothes, both shooting at the elk, when Jerry knew that he didn't have a hunting license for the area. Jerry said that he had no excuse. I asked what they would have done had they killed another elk, and he said that their hope had been to just kill one, since Bill had a tag. I noted that another elk had obviously been wounded though, and Jerry repeated that he had no excuse, no story to explain what they had been doing. He admitted being in the wrong and using bad judgment. There was nothing else he could say. I asked him why he had stashed his gun and hat, then turned his blaze orange coat around. He said that he just didn't like blaze orange, that he usually only wore it until he got something down, and then he would take it off. He said that he had put his hat on top of the rifle so that he could find it again, that he certainly hadn't been trying to hide the gun, or he wouldn't have put his orange hat on top of it. He said again that it had just been bad judgment on his part, a bad deal.

I told him that we weren't going to make a decision that night on what we were going to do, that he was definitely going to get a ticket (at which point, he said that he deserved one), but that we needed to look at all the circumstances before we made a decision. I got phone numbers to call him, 239-0390 (cell), 530-5614 (office).

We returned to CR 260, to where the herd of elk had crossed the road. We followed the tracks of the herd west along the Keeler fence line until they crossed the fence to the north. Finding no blood trail, I returned along the southern edge of the herd's tracks, looking for the tracks of any elk which may have veered off. About 50 yards west of the road, I found the tracks of one elk veering to the SW. This elk's tracks were very close together (while the other elk tracks were widely spaced, running tracks), and the feet were leaving clear drag marks in the snow, as if it was having great difficulty traveling. About 50 yards further, we found another cow elk dead just inside the pinon trees on the west side of this open field, just below Chuck Keeler's garage. We found one bullet wound on the left side back in the stomach area, and could find no exit wound. We called Chuck Keeler, who came down and opened his gate so that we could drive to the elk, where I loaded it, and we took it to our warehouse in Salida. I did call Bill and inform him that we had found the second cow. At the warehouse, we gutted this elk, and found that the bullet had traveled through the stomach, and just into the chest cavity, hitting the liver and the right lung. This elk would have been acting very sick, and probably lagging way behind the herd due to the wound. There was a second wound to one of the front legs, just above the hoof, where a bullet had grazed the leg, gouging a channel in the side of the leg, and chipping the lower leg bone. We recovered a very nice bullet out of this elk, and upon measuring the diameter with dial calipers, concluded that it was a .30 caliber bullet.

The next day, Jim returned the first elk to Bill Dvorak, who tagged it. Bill did complain to Jim that he normally left the hide on his elk until he cut them up. (We had skinned back the hide in several places, and cut back the

shoulders when we were looking for bullets.) Kim Woodruff donated the 2nd elk. I returned to the Bertschy field on 1/1/07 about 3:00 PM, took photos of the area during daylight, took GPS readings, discussed the case further with Ethel Bertschy, and tried to find additional shell casings, finding none. Ethel did tell me that she doubted that Bill had tried to contact her about getting permission to hunt, as she had Caller I.D. on her phone, and there had been no calls from him, and there had also been snow in her driveway for over a week before the hunting incident, and no one had driven into her home. She also said that she was almost always home, and Bill had not come by.

On 1/2/07, as I was preparing to leave on a blizzard relief assignment in the SE corner of the state, I found Jerry Mallett's hunting licenses in my coat pocket. I called him, and met him at the Commissioner's office and returned his hunting licenses. He asked me where we were on the case, making a comment that all he had really been doing was hunting in the wrong unit, asking what that would amount to. I told him that he could be charged with hunting in the wrong unit, hunting elk without the proper license, and illegal take of an elk, and that he probably would be cited with at least a couple of those charges. I noted the Bill would probably be cited for the same charges as a complicitor since he had repeatedly lied to cover for Jerry, and had participated in the event with him, knowing that Jerry was in the wrong, including pursuing the elk which Jerry had wounded. Jerry said that they had figured that Bill would also receive a citation.

I returned to Salida 1/9/07, concluding this report today. I called Johnny Turner, Ethel's nephew, using a number she gave me. He said that the elk had still been out in the Bertschy field when he arrived, and Bill had been kneeling in the field about 100 yards from the road. The elk had crossed the road in front of him. He had walked out into the field, contacting Bill, who was dressed in blaze orange hunting clothes, and carrying a black, synthetic-stocked rifle. Johnny asked what caliber the gun was, and Bill told him it was a 7 mm magnum. Johnny said that he had asked Bill what he was doing, and Bill had responded that he had permission to hunt the field. Johnny told Bill that he had been told otherwise, and Bill needed to come out of the field and talk with his Aunt. When they got to the vehicle, he had driven to where the elk crossed the road, telling Bill that there had been quite a few shots fired, and they needed to see if there were any more wounded elk. He had found several blood drops on the road, which he felt were from two different wounded elk (the trails were about 10 feet apart). He had pointed these blood spots out to Bill. He said that as he had driven Bill back to his vehicle on Hwy. 50, Bill kept telling him that he had permission to hunt the property.

Added 1/11/07: In the evening of 1/10/07, I called and left messages on both Jerry Mallett's and Bill Dvorak's phones, asking them to call me to set up a time we could meet with them to issue citations. Both men called me back the next morning. Jerry was very upset about the information which was circulating in the media about this case, particularly the detail involved, and the rumors that they were possibly going to be charged with felonies. I told him that I had no idea where those rumors had come from, that I had not given any detail about this case to the media, merely telling them when they had called me that the case was under investigation, charges had not yet been filed, and we would not release any details about the case at this time. He said that he had been talking with Atty. Terry Wiggins about representing him, and that he had also been to the Dept. of Nat. Resources the day before meeting with one of the Asst. Directors about the information which had been leaked. I told him that I was not aware of any leaks within the Division of Wildlife about this case, but that I had been hearing many rumors circulating within the public, and that my desire had been to have them come in, issue the citations, so that many of these rumors could be laid to rest. I told him that our intention had been to cite both he and Bill Dvorak with misdemeanor charges of Hunting in an Improper Unit, and Unlawful Take of an Elk, citing Bill as a Complicitor. I noted, however, that if it looked like this case was headed for trial, we would probably add the charge of Hunting Without a Proper License. He said if that was the case, he would like to just come into the office and write us a check. We arranged a meeting at 1:30 PM, and he said he would set it up with Bill.

Almost as soon as I hung up, Bill Dvorak returned my call. He said he had not yet spoken with Jerry Mallett. I told him about our discussion concerning the meeting and the issuing of citations. He asked why he would be getting citations, saying that he had had a license to hunt elk in the unit. I explained that he had repeatedly lied and attempted to cover up Jerry's violations, as well as assisting him in them, and as such, he would be cited as a complicitor. He argued that Jerry always put in for a Unit 56 Private Land Only License, and that he had not been aware that Jerry had been hunting illegally. I reminded him that he had lied to me about Jerry hunting from the first moment I had met him the night in question, as well as repeatedly after that, which clearly told me that he had known that Jerry was illegal. He said that he hadn't found out until during the hunt that Jerry didn't have a license for the unit, and I replied that what he had just admitted to was that he did know Jerry was illegal, had gone ahead with the hunt, assisting and facilitating the violations, and lying to cover them up. He acknowledged that was correct. I noted that he could also be cited for the Hunting without a License Charge, as well as Obstruction of Justice, and that the adding of those charges was a probability if the case went to trial. We discussed the fine amounts. He mentioned that he was going through some tough times financially, and money was very tight. I told him that I wished he would have thought about that before lying to me. He said that he would get back with me.

Shortly, I received a call from Atty. Earnest Marquez. We briefly discussed my trip to SE Colo. on the blizzard recovery effort, and he then told me that he was representing Bill Dvorak. He wanted to know where we were on the case. I told him the same things I had just told Bill and Jerry. He wanted to know when he could get a copy of my case report. I told him that I assumed he could get a copy after the charges were filed. He said that he would discuss the case with Bill and get back to me.

He called me back late morning the same day and told me that Bill and Jerry would be at our office at 1:30 PM to receive citations. We met at the appointed time, and penalty assessments were issued. Both men were friendly throughout the contact, although Bill stated that he thought his penalty was overly severe. I told them that a lot of people were watching this case to see if these two men were going to be treated any differently than others in similar circumstances, and that we were being very careful to treat them just as we would have others in similar situations.

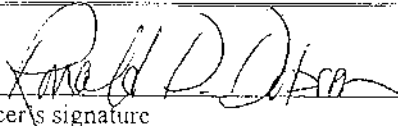
Added 1/16/07: The next day, I heard a phone interview with Jerry Mallett on one of the local radio stations, where Jerry admitted that he had killed an elk in an improper unit and been cited by the Division of Wildlife. He said that he normally hunted Unit 56, but had put in for another unit this year, and that didn't dawn on him until after he had pulled the trigger. He said that he had paid the citation, with the fine amounts around \$1430. He admitted that Bill Dvorak and he had been hunting together, and that they had each killed an elk, however, his had been in the wrong area. He took full responsibility for the violations, but said that Bill had done nothing wrong.

AGGRAVATING/MITIGATING CIRCUMSTANCES

Ethnic Code 1

The above report is true and correct.

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Officer's signature

~~4-10-07~~
1/16/07

Date

AWM's signature

Date