

Section 3:

Interaction

With

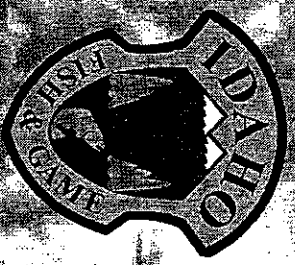
The Public

CONSERVATION ENFORCEMENT CREED

The Commission has established as policy that, relative to the enforcement of fish and game laws, rules, and proclamations, the official philosophy, guideline and creed of Department personnel shall always be:

- ◆ To assist the public in their compliance with regulations;
- ◆ To save unfortunate offenders from unnecessary humiliation, inconvenience and distress;
- ◆ To have no compromise for crime and to resolutely seek the violator, but with judgment charitable toward the minor offenders;
- ◆ Never to give if a warning would be better;
- ◆ Never to scold or reprimand, but rather to respect and inform.

Please establish this policy firmly in your mind and use it as a guide in your enforcement activities.



State of Idaho vs. Michael G. Long				
No hearings scheduled				
Case: CR-2007-0027856	District Judge: John T. Mitchell	Amount due: \$0.00	Closed	
Charges: Violation Date	Charge	Citation	Disposition	
11/24/2007	136-1603 Trespass On Cultivated Lands In Vio Warning Signs Arresting Officer: Overman 113, Dave, F&G	64798	Finding: RULE 29 Disposition date: 07/16/2008 Fines/fees: \$0.00	
11/24/2007	136-502 Wdlf-poss,transport,shipment Of Wildlife Violation Arresting Officer: Overman 113, Dave, F&G	64798	Finding: RULE 29 Disposition date: 07/16/2008 Fines/fees: \$0.00	
Register of actions:	Date			
	11/27/2007	New Case Filed - Misdemeanor		
	12/06/2007	Hearing Scheduled (Pre-Trial Conference/Arraignment 02/05/2008 01:00 PM)		
	12/06/2007	Notice of Pretrial Conference		
	02/05/2008	A Plea is entered for charge: - NG (136-1603 Trespass On Cultivated Lands In Vio Warning Signs)		
	02/05/2008	A Plea is entered for charge: - NG (136-502 Wdlf-poss,transport,shipment Of Wildlife Violation)		
	02/06/2008	Hearing result for Pre-Trial Conference/Arraignment held on 02/05/2008 01:00 PM: Arraignment / First Appearance		
	02/11/2008	Administrative assignment of Judge		
	02/11/2008	Hearing Scheduled (Pre-Trial Conference 05/14/2008 02:00 PM)		
	02/11/2008	Hearing Scheduled (Jury Trial Scheduled 06/02/2008 09:00 AM) 6/2-6/6		
	02/11/2008	Notice of Pre-Trial Conference and Trial		
	02/11/2008	Speedy Trial Limit Satisfied		
	03/12/2008	Motion To Disqualify Judge Marano		
	03/18/2008	Order to Disqualify J. Marano *****DENIED untimely*****		
	05/14/2008	Hearing result for Pre-Trial Conference held on 05/14/2008 02:00 PM: Hearing Held		
	05/21/2008	Subpoena Return/found - Mark S. Rhodes 5/20/08		
	05/21/2008	Subpoena Return/found - Steven M. Loken 5/20/08		
	05/27/2008	Notice Of Appearance		
	05/27/2008	Motion To Vacate and Reschedule Trial		
	05/27/2008	Letter from Starr Kelso		
	05/27/2008	Waiver Of Speedy Trial		
	05/29/2008	Order Vacating Trial *****DENIED*****		
	06/02/2008	Hearing result for Jury Trial Scheduled held on 06/02/2008 09:00 AM: Continued 6/2-6/6		
	06/03/2008	Hearing Scheduled (Jury Trial Scheduled 07/14/2008 09:00 AM) STATUS CALL		
	06/03/2008	Notice of Trial		
	06/12/2008	Plaintiff's Request For Discovery		
	06/12/2008	Plaintiff's Response To Request for Discovery		
	06/16/2008	2nd Supplemental Response to Discovery		
	06/19/2008	Motion To Dismiss		
	06/19/2008	Memorandum in Support Of Motion to Dismiss		
	06/19/2008	Notice Of Hearing		
	06/19/2008	Notice of Discovery		
	06/19/2008	Subpoena Return/found to Dave Overman 06/17/08		
	06/19/2008	Subpoena Return/found to Mark S Rhodes 06/17/08		

06/25/2008 Subpoena Return/found: Richard Froehlich on 06/12/08
06/27/2008 Supplemental Motion to dismiss Pursuant to ICR Rule 47
06/27/2008 Notice Of Hearing
06/27/2008 Memorandum In Support Of Supplemental Motion to Dismiss on Due Process Grounds
07/11/2008 Subpoena Return/found on 07/09/08 served on Steven M Loken
07/11/2008 Motion In Limine
07/11/2008 Notice of Discovery
07/14/2008 Hearing result for Jury Trial Scheduled held on 07/14/2008 09:00 AM: Continued STATUS CALL
07/14/2008 Hearing Scheduled (Jury Trial Scheduled 07/16/2008 09:00 AM) 1st Set
07/15/2008 Amended Complaint Filed
07/15/2008 Motion In Limine
07/16/2008 Hearing result for Jury Trial Scheduled held on 07/16/2008 09:00 AM: Jury Trial Started 1st Set
07/16/2008 Judgment
07/17/2008 Case status changed: closed pending clerk action
07/21/2008 Case status changed (batch process)
08/22/2008 Appeal Filed In District Court
08/22/2008 Appeal Filed In District Court
08/22/2008 Case status changed: Reopened
08/22/2008 Administrative assignment of Judge
08/25/2008 Case status changed (batch process)
08/26/2008 Estimate Of Transcript Costs
10/03/2008 Motion & Affidavit for Extension of Time on Transcript
10/10/2008 Order Extending Time for Transcript Preparation
11/05/2008 Notice of Lodging Transcript
11/05/2008 Lodged - Transcript Jury Trial
11/05/2008 Memorandum of Transcript Cost
11/06/2008 Receipt Of Transcript - Jury Trial - Starr Kelso
11/10/2008 Receipt Of Transcript - Jury Trial
01/27/2009 Notice Of Settling Transcript On Appeal and Briefing Schedule
02/03/2009 Notice Of Settling Transcript On Appeal and Briefing Schedule -- AMENDED

1 were the same, then I could buy that. But hunting and
2 trespassing are not the same. Trespass means you can't
3 come on this property. The other one is -- says that you
4 can't hunt on this property. There's a difference between
5 that, and it's recognized by the legislature because they
6 have a different statute that also deals with trespassing.
7 It's -- You know, I suppose I'll get in trouble with my
8 local representative, but it's an extremely poorly written
9 statute in my opinion. Mr. Kelso?

10 MR. KELSO: I agree with everything you've said.

11 THE COURT: Do you have a motion?

12 MR. KELSO: A motion to dismiss.

13 THE COURT: Pursuant to Rule 29 uh, I'll find that
14 there's insufficient evidence for the uh, jury to come to
15 the conclusion that the defendant has violated the
16 statutes indicated. And again, I think everyone's in
17 agreement, if he did not violate the trespassing statute,
18 he obviously did not violate the taking a -- taking a game
19 animal unlawfully. Bring the jury back.

20 (The jurors enter the courtroom)

21 THE COURT: Okay. Let the record reflect the jury is
22 back and in their proper positions. Ladies and gentlemen
23 of the jury, as we were going over uh, proposed jury
24 instructions uh, quite frankly we -- we, mainly me -- came
25 upon -- came to the conclusion that the signs that were

1 posted had to say no trespassing. No hunting was not
2 sufficient. Now, that's the way the legislature wrote the
3 law. Judges don't make the law, they're required to
4 interpret it. And it clearly, at least in my opinion, and
5 I guess mine's the only one that counts in this particular
6 case, the uh, signs had to say no trespassing. If they
7 say no hunting -- hunting and trespassing are not the
8 same. I mean that's clear, okay? I mean it's clear to me
9 anyway. Hunting and trespassing are two different things.
10 And this statute is written such that they have to say no
11 trespassing. If they say no hunting, I don't know what
12 statute applies and they weren't -- he wasn't charged with
13 violating no hunting signs. Uh, he was violate -- or he
14 was charged with trespassing on posted land. Trespassing
15 means he trespassed on posted land as opposed to hunting
16 on posted land.

17 It sounds like a lot of legalese, doesn't it? Well,
18 that's why 32 years ago I passed the bar and now I guess I
19 can make those decisions. 23 years ago two days ago I --
20 they let me become a judge. Maybe -- maybe I won't be one
21 some day and I won't have to make these decisions. But
22 I've made it. We're gonna live with it. Thanks for
23 coming.

24 UNIDENTIFIED MALE VOICE: So both -- both charges are
25 (inaudible)...

1 THE COURT: If in fact he did not illegally take the
2 -- the deer because he violated no trespassing signs --
3 that's the only way it was illegal because he violated no
4 trespassing signs -- then he obviously doesn't possess
5 unlawfully taken wildlife. It was lawful for him to take
6 it. Now, as to violating no hunting signs, I don't have
7 the code memorized. I don't know if that's in there or
8 not, but it wasn't what he was charged with and he's got a
9 right to be uh, tried on what he's charged with and been
10 given notice as to what he's been charged with. And that
11 was not it. Okay. So thanks for comin'. We'll see you
12 Friday. Yes.

13 UNIDENTIFIED MALE VOICE: Question.

14 THE COURT: Yes.

15 UNIDENTIFIED MALE VOICE: Your Honor.

16 THE COURT: Yes.

17 UNIDENTIFIED MALE VOICE: This is two trials in a row
18 where I haven't had (inaudible)... to deliberate. Will I
19 get a chance to deliberate in another trial?

20 THE COURT: I wish -- I wish I could say yes. And
21 uh, I wish that in both cases you would have been able to.
22 But uh, quite frankly, I -- Did I -- I told you why it was
23 yesterday that we couldn't do it, because I had to be
24 called as a witness uh, in the -- in the new trial, which
25 I probably will be. I think they'll try it again. Um,

1 life's -- Which reminds me. I'm going to excuse you two
2 folks -- Ms. Simpson, right? Okay. And you for Friday's
3 trial because it's highly likely that the one we're going
4 to take is the person that we tried yesterday. And you've
5 heard enough that it's gonna be hard for you to separate
6 it. I mean I don't wanna diss you in any way, but it
7 would be hard for me to separate the two. Uh, and as I
8 say, it's -- he's charged with another crime. Frankly,
9 another crime that's closely related to violating a
10 domestic violence restraining order; it's called domestic
11 battery, same victim. Um, so I'm gonna excuse you two.
12 You don't have to come back at least for the next two
13 years. The rest of you is -- that's a different story.

14 Okay. Did you have a question?

15 UNIDENTIFIED MALE VOICE: No.

16 THE COURT: Okay. Just stretching. Good for you.

17 Okay. We'll see the rest of you on Friday then.

18 Okay.

19 (The jurors were excused)

20 THE COURT: Okay, let me sign those.

21 (Discussion of unrelated matters)

22 MS. JOHNSTONE: I knew it would come down to the jury
23 instructions.

24 THE CLERK: Lisa?

25 MS. JOHNSTONE: Yeah.