

W17 Public safety writing

Mar 1, 2019

Conservation officer details probe into illegal hunting tactics

By Alex Bridges The Northern Virginia Daily

WOODSTOCK – A group of hunters learned recently that cheating under the game warden’s eye in Shenandoah County doesn’t pay.

Owen Heine, a conservation officer with the Virginia Game and Inland Fisheries assigned to Shenandoah County, spoke this week by phone about the months-long investigation that exposed a group’s use of illegal tactics to hunt bears in the George Washington National Forest. The investigation focused on the area of the Peters Mill Run off-road vehicle trail that runs from Edinburg Gap to Woodstock Tower Road, Heine said.

Heine ultimately charged Joseph P. “Buster” Gyoker Jr., Joseph W. Stanley, Michael Crutchfield, Dakota J. Corder, Joshua L. Miller and Gary A. Bright with one or more of the following hunting offenses: unauthorized feeding bears in a national forest, unlawfully chasing, hunting or using a bait site and, in some cases, using radio tracking equipment to aid in hunting, according to Shenandoah County General District Court records. Other people were investigated as part of the case but not charged, Heine said.

The court dismissed Crutchfield’s charge at the request of the Office of the Commonwealth’s Attorney. The remaining defendants pleaded guilty or no contest to one or more of their charges, and the court dismissed any others at the request of the prosecutor. The court ordered each convicted defendant to pay fines ranging from \$150 to \$250. None of the charges call for jail time. Judge Amy Tisinger lectured one defendant at his adjudicatory hearing about cheating at hunting. Another defendant told Tisinger other hunters used the same tactics or worse. Virginia prohibits anyone from placing food, minerals, carrion, trash or similar substances when it attracts any species of wildlife in such numbers or circumstances to cause property damage, endanger people or wildlife, or create a

public health concern. State law also prohibits the use of radio tracking equipment to aid in the chase, harvest or capture of wildlife. Virginia also prohibits using dogs to chase or hunt, or attempt to chase or hunt, any wild animal from a bait site or to train dogs on any wild animal from a bait site.

Heine provided details about the investigation.

“Really it’s more of a historical problem with bear hunt clubs having bait sites and maintaining bait sites, and those are really difficult to find,” Heine said. “You know how big the national forest is here, and you’re literally trying to find a needle in a haystack.”

Hunters usually hide their bait sites with no flag trail or other markings, Heine said.

“So it’s really difficult to enforce, and they all talk to each other via radio so it’s not like I can just go in there in my marked unit and expect to catch somebody,” Heine said. “I mean, as soon as I pass the first bear hunter they’re on the radio to the rest, and they know that we’re coming.

“There’s really no other way to catch them other than how we did it this time, and that was just through a series of cameras that we had placed on that road, hoping to narrow down, you know, get a pattern for them and narrow down where the bait sites might be, and it worked,” Heine added. “We ended up, on the first week of having the cameras out, ended up finding evidence of where Buster (Gyoker) had stopped in front of one of the cameras for about 10 minutes, and we searched that immediate area and found the first bait site, and built the case around that bait site.”

The investigation took approximately six months, from the time the agency set up the camera Aug. 1, 2017, to the end of the operation Dec. 16, 2017, when authorities obtained warrants to search suspects and vehicles, Heine said. The investigation continued for another several months, he added.

“After doing the take-down, I then had to analyze all that camera footage — for all that time period we had cameras running that whole time — and so you probably had hundreds if not thousands of hours of video and pictures, and only some of it was related to the case,” Heine said. “You had ATVs and other action on that trail that was unrelated.

“And then it was picking out the videos and the photographs that actually showed a crime, and then documenting that and then being able to go before a magistrate with those exact dates and times and persons involved to get the warrants,” Heine added. “So it was a pretty lengthy process to bring it to prosecution.”

The state punishments for violating hunting laws fall below those for drug-related crimes that often involve lengthy investigations.

“The significance of it, in the hunting community anyway, it’s important,” Heine said. “We have laws on the books that address this kind of thing, but to actually catch them and enforce them is really difficult.

“I mean, you’re trying to catch a hunter who is, by nature trying not to be seen by whatever animal they’re hunting, and you’re trying to find that person in violation of law,” Heine added. “You can’t just ride around in your marked vehicle and expect to catch people.”

A hunter with a firearm in the woods during a particular hunting seasons does not necessarily constitute a crime, Heine explained. Authorities must observe a hunter’s activities while in the act to see if he or she violates the laws, Heine said. Hunting regulations and enforcement go beyond ethics and fairness, Heine said.

“We have enough problems in the summer with nuisance bears ... getting into trash, into people’s cars, into people’s livestock feed and, you know, if a bear hunter is intentionally feeding ... bears for months on end and they’re associated people with food directly, that does nothing but encourage that same behavior that becomes a problem in the off-season all summer long when we can have up to five calls a day for nuisance bears,” Heine said. “So it’s more than just the hunting ethics involved and trying to break a pattern here with these bear hunters.”

Hunting laws address public and hunter safety, ethics and biology, Heine said. The laws cover the schedule of seasons, the hours a person can hunt, trespassing and baiting. Hunting before or after the season, for example, is “cheating,” Heine said. Contact Alex Bridges at abridges@nvdaily.com

Woman recalls 2017 knife attack

By Alex Bridges The Northern Virginia Daily

Jan 26, 2019

WOODSTOCK – A Shenandoah County woman suffered 23 stab wounds and other injuries as she protected her children from a knife-wielding man during 2017 attack in Edinburg.

The woman provided details of the incident during a hearing Friday in Shenandoah County Circuit Court.

Samual Jacob Homer, 20, of Edinburg, appeared in the court via video from Rappahannock-Shenandoah-Warren Regional Jail. Homer stands charged with two counts of attempted first-degree murder and three counts of malicious wounding related to the May 18, 2017, incident and five counts of possession of child pornography that authorities say occurred a month earlier.

Commonwealth's Attorney Amanda Wiseley called the woman who was attacked, Whitney Rice, to testify. Homer's attorney Peter McDermott and the defendant's court-appointed guardian Michael Araj did not object to Wiseley calling the witness as long as the prosecutor did not plan to use the testimony should Homer's competency to stand trial be restored. McDermott said he had no intention to cross-examine the witness at the hearing but wanted to preserve the right to do so in the future.

Judge Clark A. Ritchie allowed Wiseley to call the witness and acknowledged this was a hearing and not a trial. The judge had the video equipment muted and turned so the defendant could not see or hear the testimony.

Rice testified that on May 18, 2017, she took her five children to the Edinburg park behind Town Hall. Homer arrived on his bicycle a short time later, she testified.

Rice said she lived in Edinburg at the time and had seen Homer in the area but didn't know him by name.

"He approached me and was warning me about snakes that he had seen in a nearby field to make sure my children stayed away from them, and then he asked me if it would be all right to play with my children, and I said yeah, that's fine," Rice said. Her two older children knew Homer by name because he helped out in the cafeteria at their school, Rice said. They played together for about 15 minutes before she told her children they needed to leave because it was getting late, she said. Homer left at that point, she recalled. Rice said she saw him come back into the fenced-in area at the park about five minutes later.

“Two of my children were in the baby swing, and I was pushing them, and I heard my oldest daughter scream ... and I just assumed she fell, hit her head, something,” Rice said. “I didn’t really think much of it until she ... came out and she was covered in blood, and so at that point, I just thought maybe an accident, something happened and then she screamed ‘he did it, he did it.’”

Rice said she then saw Homer holding a knife in his hand while close to her daughter.

“He stood there for a minute, and I think I just kind of panicked and my daughter came toward me ... and Mr. Homer came over with her ... and I was like ‘it’s OK, it’s fine, you can leave, I won’t tell anyone,’” Rice recalled.

Rice testified that Homer stabbed her when she came between him and her daughter.

“I was trying to get him off me to fight back with him, so he was just kind of aimless swinging the knife, pretty much hit me all over, and I fought back with him a lot,” Rice testified. “There were even times when I was punched and kicked repeatedly because I was fighting him so hard. At one point, I even ripped a bunch of his shirt trying to get him to the ground, just anything to make him stop.”

Rice said she guessed the physical altercation lasted 15-20 minutes. Her daughter who was stabbed had run to their van, which was locked, so she hid in some nearby bushes, Rice recalled. She said her stepson stayed close and repeatedly told Homer to “stop hurting my mom.” The two youngest children stayed in the baby swing, she added.

Wiseley asked Rice how the altercation eventually ended. Rice said she picked up her 1½-year-old and Homer attacked.

“At that point, I just let my guard down and he came from behind and stabbed me multiple times in the back and in the side right here to the point where – I knew it was bad, and I later found out that during that time he actually cut my 1½-year-old on the head above the right ear,” Rice recalled.

Homer stuck the knife in the ground and walked to a water fountain where he washed his hands and clean up, Rice said.

“When I’d seen the knife in the ground, I thought ‘if I’m not gonna make it, I can at least do something with this knife so that if I’m gone, he can’t hurt my kids,’” Rice testified.

Rice recalled watching Homer while she took the knife, stuck it under her shirt and then put the weapon in a trashcan. At one point, Rice recalled, Homer kept asking her where the knife was. Homer appeared angry, she said.

Rice said she eventually sat down against a fence and later heard sirens. At that point, Rice recalled that Homer started to straighten himself up and sat down beside her, making it look like he was helping her.

“He went so far as to tell the officer that the individual who did this to me actually ran, said ‘he went that way, the guy that did went into the woods,’” she recalled.

Rice said she and her children quickly told officers that Homer did it.

Wiseley asked Rice to comment on injuries that she and the children sustained. The first child injured suffered two stab wounds to her neck, one less than an inch from her carotid artery, and two, deep defensive wounds on her right hand, Rice said. All injuries required stitches, she noted.

Rice testified that she sustained 23 stab wounds to her head, face, an arm and thighs. She suffered a collapsed lung as a result of a stab wound to the side of her torso. Rice added that she had multiple stab wounds to her back and a leg.

Emergency responders took Rice by helicopter to Winchester Medical Center.

During transport, Rice said her blood pressure fell to the point that responders had to stick a tube in her chest to relieve the pressure as a result of the collapsed lung.

Rice said she spent three to four days in the intensive care unit followed by two days in another room. Rice said she received eight units of blood during her treatment. The stabbing severed tendons in two of her fingers, requiring surgery. She also suffered a severe injury to her left shoulder, limiting the use of her arm. Then she went through months of physical therapy.

Contact Alex Bridges at abridges@nvdaily.com

Jul 9, 2019

Judge dismisses case, gives prosecutor more time

By Alex Bridges The Northern Virginia Daily

WOODSTOCK — A judge dismissed a man's charge Tuesday to let the prosecutor, who disclosed she received potential evidence the day before trial, bring the case back later.

Jonathan Jerome Judy, 44, of Maysville, West Virginia, appeared in Shenandoah County Circuit Court to face trial on a felony count of strangulation. Authorities accuse Judy of strangling a woman on June 28, 2017. Judy was arrested on the charge Nov. 13, 2017. A grand jury indicted Judy more than a year later on one count of felony strangulation Dec. 12. Judy pleaded not guilty at his arraignment March 6. The case was continued several times until Tuesday.

Commonwealth's Attorney Amanda Wiseley made a motion before Judge Kevin C. Black to dismiss the case by order of nolle prosequi — a request that, if granted, means the state agrees not to prosecute the case at this time. The order allows the state to revive the charges in the future if desired. Prosecutors usually make such motions as part of plea deals. Prosecutors rarely revive charges dismissed under such orders and seldom do defense attorneys object to such a request.

Wiseley told Black she wanted to dismiss the charge at this time because her office received potential evidence — photographs and a recording of a jailhouse phone call — at 9:30 p.m. Monday. Wiseley added that there is supposed to be a report made by forensic nurse Betty Fisher who examined the alleged victim in the case. The prosecutor said she has yet to receive the report, if it exists.

Attorney Dragana McCleary objected to Wiseley's motion and told the court the defense was ready to go to trial. McCleary advised Black that Judge Clark A. Ritchie had ordered the prosecutor on Dec. 12 to provide any potential evidence to the defense by Jan. 2.

Wiseley told the court she didn't plan to use the recently received items at trial. McCleary argued that it did not matter if Wiseley intended to use the material or not. The law and Ritchie's order required the prosecutor to provide any potential evidence to the defense, McCleary said. The defense attorney added that she needs to see any and all potential evidence to prepare for her client's trial.

The defense has not receive any discovery material in the case from the prosecutor, McCleary said. Wiseley's motion to dismiss is for lack of preparation and not for good cause, McCleary argued.

“I’m not saying that Mrs. Wiseley has been sitting on these pictures, photographs, scientific labs or medical records, but we’ve had this trial set for two months and it was actually set for jury trial and I think it’s very prejudicial to my client if you nolle pross this case you basically grant her a continuance to prepare for trial that they’re not prepared for today,” McCleary argued.

The court had the option to dismiss the case for lack of compliance with the discovery order, grant a continuance on behalf of the defense or exclude from trial any evidence not provided to the client’s counsel, McCleary said. McCleary did not seek a continuance.

Dismissal for good cause usually only applies in cases where, for example, the prosecution finds potential evidence not otherwise known, McCleary said. But Wiseley’s office has known about the evidence in question, McCleary said.

Wiseley said McCleary’s arguments seemed “disingenuous” because the defense attorney never notified the prosecutor’s office that she had not received discovery materials. Wiseley told Black she was willing to hand over any of the material she received Monday. The prosecutor said she had not yet received Fisher’s report.

Wiseley again asked the court to dismiss the case. McCleary reiterated her argument that a dismissal on behalf of the prosecution or a continuance would prejudice her client. Black asked how the lack of discovery evidence would hurt her client’s case. McCleary said the defense’s case might have been different had she received the discovery evidence.

McCleary went on to argue that the law specifically requires the prosecutor to provide to the defense any medical report made in a case involving a victim. Black asked if the prosecutor has to know such a report exists in order to provide it to the defense. McCleary pointed out that the police report filed in Judy’s case notes that a forensic nurse did complete a medical examination of the alleged victim.

Wiseley called McCleary’s arguments an “ambush” and said the defense attorney had not contacted her to request discovery information. Black sided with Wiseley. “It seems like to me there’s some good-faith aspect on the defense side to make a request if there’s something you think is indicated that’s out there and ... the defense just sits around and goes ‘Ha, I’m gonna lay this trap,’” Black said. “Isn’t that the case?”

McCleary said it's not a trap when the prosecutor waits until the last day to inform the defense that it has discovery evidence.

Black explained that Wiseley said the phone call recordings are new to her. But, in the case of the medical report, the defense didn't ask for the document identified in the police report.

"Isn't it a two-way street here?" Black asked.

Usually a discovery response comes with a cover sheet on which the prosecutor checks types of items such as police reports, recordings and other materials as provided, McCleary explained. None of the boxes were checked, McCleary said. The defense attorney argued that she shouldn't have to ask the prosecutor repeatedly for discovery materials. Wiseley interjected and told Black that McCleary had the police report for months.

"There's no such rule here that I have to go scavenge for discovery that they have," McCleary said.

"Usually they don't have it and as of today she even said I didn't have it until yesterday so, what, am I suppose to go in every day to ask 'well, do you have it, do you have it, do you have?'" McCleary said. "That is not appropriate practice of law in this court."

Black recessed to his chambers to consider motions by both parties.

Black returned and denied McCleary's motion to dismiss the case.

"That remedy would be completely disproportionate to any alleged wrong that occurred," Black said. "If there's a discovery failure here, it's certainly not willful by the commonwealth.

"I mean, this isn't a case where there's some active failure to disclose and it's really unclear to me ... I mean, I think there's some duty but to what level there was any failure on the part of the commonwealth I'm not sure ... it rises to the level of any culpability," Black added.

The judge went on to say that Wiseley's motion to not prosecute the case benefits the defendant and added that he saw no reason to not proceed to trial. But Black then said he hadn't investigated how such action would benefit or harm either party. The judge said that the defendant could benefit from the dismissal because that would provide additional time to see potential evidence that might help him if Wiseley intends to bring the charges back.

– Contact Alex Bridges at abridges@nvdaily.com