

IN THE MATTER OF : ***HUNTING LICENSE SUSPENSION
DEEP INCIDENT:20-33198***

MARTINELLI, PETER : ***July 14, 2022***

FINAL DECISION¹

A hearing was held on July 12, 2022, regarding the suspension of Mr. Peter Martinelli's hunting privileges in accordance with General Statutes §26-62 as a result of his involvement in a hunting related shooting that allegedly caused the death of a domestic animal on November 3, 2020. The parties in attendance included Mr. Peter Martinelli, representing himself, and Attorney Alison Rau representing the Department of Energy and Environmental Protection (DEEP) and its Environmental Conservation Police. Based on the evidence in the record, I find as follows.

***A
Procedural History***

On May 24, 2022, DEEP sent a certified letter to Mr. Martinelli, notifying him of its intent to suspend his license for a year, pursuant to General Statutes § 26-62. This letter informed Mr. Martinelli of his right to a hearing and noticed the hearing for June 8, 2022, at 9:30 AM. Prior to the commencement of the hearing on June 8, DEEP was notified that Mr. Martinelli had not received proper notice, and the hearing was continued to June 30, 2022, to ensure proper notice, which subsequently occurred. (Ex. DEEP-3). DEEP requested a continuance to the hearing and the prehearing exchange of information, which was granted, and the hearing was scheduled for July 12, 2022.

On June 8, 2022, a notice of prehearing conference and hearing was issued. Pursuant to this order, DEEP submitted proposed exhibits DEEP 1-15 and proposed one witness, Officer D. Lagace. Mr. Martinelli submitted proposed exhibits Mart 1a-1e.²

A prehearing conference was held on July 12, 2022, prior to the start of the hearing. DEEP exhibits 1-15 and Mart exhibits 1a-1e were fully admitted, with no objection. Additionally, Officer D. Lagace was admitted as a witness for DEEP with no objection from Martinelli.

¹ This Final Decision was re-posted on March 6, 2023, to correct typographical errors.

² The testimony and proceedings in this matter were recorded. No written transcript has been prepared. The audio recording of this hearing is on file with the Office of Adjudications and is the official record of this proceeding. Additionally, documents not listed as an exhibit in these findings are part of the docket file for this proceeding, which is part of the administrative record of this matter.

B
Findings of Fact

1. On November 3, 2020, Mr. Martinelli was hunting from a tree stand on his property and he saw a deer moving from left to right, about fifty yards away through the brush. Martinelli decided that it was a small buck, and he chose to pass on shooting the deer. Martinelli then observed what he believed to be a coyote trailing the deer. He based his observations on the way the animal was stalking the deer and the animal's patterns in the woods. Martinelli shot and killed this animal. (Ex. DEEP-9, Test. 7/12/22 Martinelli, Lagace).
2. After shooting at the animal, Martinelli went to the animal and realized that it was not a coyote but a dog. Martinelli proceeded to take the collar off the animal, throw the collar several feet away and left the animal where he shot it. He did not contact authorities. (Ex. DEEP-9, Test. 7/12/22 Lagace).
3. On November 4, the following morning, neighbors came to the Martinelli's property looking for their dog. Martinelli's wife was not aware of the shooting incident, and the neighbors left. Mr. Martinelli did not contact the neighbors to inform them that he had shot their dog.
4. On November 5, two days after the shooting occurred, the neighbors returned to Martinelli's property after finding their dog in his woods and an exchange occurred, which resulted in Mrs. Martinelli calling the police. Upon arriving at the property, Officer Lagace observed the domestic animal and determined that the animal had died from the gunshot wound. This determination was based on Martinelli's statement, as well as the entrance and exit wound of the bullet. The bullet entered high and forward on the right side of the dog and exited lower and further back on the left side of the dog. (Ex. DEEP-9, Test. 7/12/22 Lagace).
5. Mr. Martinelli had a valid hunting license, a valid landowner's permit and was hunting within the appropriate timeframe at the time of the incident. (Ex. DEEP-9, Test. 7/12/22 Lagace).
6. Mr. Martinelli has not taken a hunter's education course in several years, with the last one he could remember being one he took as a teenager when he first got his hunting license. (Test. 7/12/22 Martinelli).
7. Mr. Martinelli has been hunting on his property for over twenty years, frequently uses the woods around his property, and is aware of the importance of gun safety when domestic animals may be in the area. He demonstrated a system he has with an abutting neighbor to make sure there is a mutual awareness of when Martinelli is hunting and when the neighbor is in the woods with his dogs. He further described his experience with other domestic animals chasing wild animals compared to this current situation and the similar pattern of the animal he observed. Martinelli further claimed first-hand experiences with the increase of coyotes in his surrounding area. (Test. 7/12/22 Martinelli).
8. Mr. Martinelli was not charged with a hunting violation as a result of this incident, and the police report notes that the neighbor was responsible for the events that ultimately led to the death of her dog. Officer Lagace testified even with this information and his investigation into the case, it does not change the fact that Martinelli's hunting weapon caused the death of a domestic animal.

C
Conclusions of Law

The Commissioner enjoys broad discretion in deciding whether to suspend someone's license or privilege to hunt under General Statutes §26-62. Per General Statutes §26-62, "any

person, who with any weapon or instrument used in hunting, injures or causes the death of any person or injures or causes the death of any animal or damages the property of another, shall be given a hearing by the Commissioner, who may for cause shown, suspend the hunting license, or if no license is held, the privilege of such person to hunt, for such period of time as the Commissioner deems advisable.” In this instant case, the legal issue is whether Mr. Martinelli caused the death of a domestic animal through the use of his hunting weapon and if under §26-62, DEEP has proved that his hunting license should be suspended for one year. The facts undisputedly demonstrated that Martinelli’s hunting actions directly caused the death of the domestic animal. Martinelli does not dispute the fact that he shot and killed the dog using his hunting weapon and the bullet wounds observed by Officer Lagace support this finding.

It is notable this incident appears to be a tragic accident, with Martinelli genuinely believing that he was shooting a coyote on his property. His testimony regarding his observations on the day in question, his past experience with domestic and wild animals, and in regard to the increase in coyotes in the area were credible and were supported by the exhibits in the record. Though the shooting appeared to be entirely accidental, nonetheless, it does not change the fact that a domestic animal was killed as a result of Martinelli’s hunting instrument. Further, the events after the shooting are concerning and raise issues related to Martinelli’s status as a licensed hunter in conjunction with the shooting. Upon realizing that he had shot and killed a dog, Martinelli removed the animal’s collar, observed that the collar did not have contact information and threw the collar several feet from the animal. He did not report the shooting to authorities at that time, nor did he contact his neighbors – even after learning that they were looking for their missing dog. For the current legal issue at hand in this administrative hearing, it is not relevant that Martinelli was not charged with hunting violations by the Vernon Police Department nor is it relevant that the neighbor was found to be responsible for the chain of events as these facts have no bearing on the issue at hand nor do they put into dispute the fact that Martinelli’s hunting actions directly caused the death of a domestic animal.

Based on the substantial evidence presented and in accordance with DEEP’s recommendation, I suspend Mr. Martinelli’s privilege to hunt in Connecticut for one year and until such time that he completes a remedial hunter safety education course offered by the Department of Energy and Environmental Protection. Mr. Martinelli is required to surrender his hunting license immediately to the Department of Energy and Environmental Protection, Environmental Conservation Police, attn. Carla Karle, 79 Elm St, Harford, CT 06106.

It is entered as the final decision and order of the Commissioner of the Department of Energy and Environmental Protection.



Kathleen W. Reiser
Kathleen W. Reiser
Hearing Officer

Party List

Final Decision in the Matter of Martinelli, P. – Hunting License Suspension Incident: 20-33198

PARTY

REPRESENTED BY

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