

Ready... Fire... AIM!

by Ed Cartier

From the title, you might think this article is about marksmanship, or perhaps hunter safety. You would be incorrect on both counts. I was a recent victim of New Jersey's draconian (and thankfully short-lived) ban on the importation of legally taken and permitted African trophies covered under the CITES treaty. This is the story of a carefully planned and successful hunt, government's overreaction to a problem that did not exist, and the eventual triumph of justice due to the combined efforts of several parties.

Ready

I was planning to be in Zimbabwe for an elephant hunt in 2014, until the Obama administration prohibited US sport hunters from importing legally taken tusks from that country. So much for that year's hunt. I converted my elephant hunt deposit (not a trifling sum) into a leopard hunt for 2015. Johnnie Johnson, my professional hunter of choice in Zimbabwe, acquired the leopard permits (one of three allocated to the Victoria Falls area) along with permits for bait animals, a bushbuck, buffalo, and eland. Right after the permits were secured, he let me know what they cost and yet another wire transfer went out the door.

As my wife had never been on safari, I convinced her to go. After we purchased our airplane tickets and got our requisite inoculations, we went shopping to outfit her with safari clothes. Just before we left, I wired funds to cover the daily fees and observer fees. We left with high hopes of a great trip and of bringing home some exceptional trophies. As you may have surmised, a safari is not a spur-of-the-moment affair, nor is it inexpensive.

Once there and underway, it took nine days before we had a tom leopard hit one of the baits. We built the blind in the morning of the tenth day, exactly 66 yards from the bait tree. Next we drove several kilometers away to make sure that the .30-'06 was putting the 200 Hornady round-nosed bullets in a tight group at the 66 yards. After lunch and a nap, we headed off to the blind. The truck was parked about a mile from the blind, and we silently hiked in, getting settled in about 3:30 pm.

My leopard showed up three hours later. Tucked tightly into the tree-limb crotch, he stared right at us as Johnnie put the light on him. After a short while, he'd had enough of life in the spotlight and slowly walked down the limb. I let him walk into the crosshairs and shot him cleanly through the chest. We found him dead on an elephant trail just a few yards from the bait.

I describe these details to illustrate the planning, expense, time on the ground, and ethics involved in taking a leopard, or



The author with his African prize. He was finally able to bring it home, but only after some tussles with New Jersey law. Patricia Vari-Cartier photo.

any dangerous African game animal. It is not something one approaches capriciously, nor is it criminal or brutal. Moreover, everything we did was completely legal, as allowed by US federal law, international treaties, and local Zimbabwean law.

Fire

We arrived back in the US having taken a 7-foot, 5-inch leopard, a warthog, and bushbuck that will likely make the Rowland Ward Book of Records. We were feeling pretty good.

The day after we landed, the "Cecil the Lion" controversy erupted. State lawmakers across the country were outraged, and promised punitive laws to ban imports of African trophies. One of the most vocal was New Jersey's own Raymond Lesniak, and pen went to paper immediately. In August 2015, Senator Lesniak introduced a bill to ban the import of "Big Five" trophies into the state. That bill did not survive the 2015 session, but Senator Lesniak introduced another version, S977 ("An Act concerning certain animal species threatened with extinction") in early 2016. S977 was reported favorably out of the Senate Economic Growth Committee, and flew through the Senate and Assembly. It stumbled only briefly, when Governor Christie vetoed that version but proposed revisions to make it "acceptable," including removing a ban on import and possession of Cape Buffalo trophies. The Senate and Assembly accepted these revisions, and it was signed into law on June 1, 2016.

My leopard trophy was now stranded in Zimbabwe. It didn't matter that I shot it legally in 2015, before anyone even considered an import ban. My property, legally acquired, was now contraband. If I tried to retrieve it, I would have been subject to

prosecution and a hefty fine. The only saving grace was that the law could not be enforced.

Aim

Through the bill's entire process there was limited opportunity for public input or comment on the legislation. One person (name purposely withheld) noted in an internal email that "this bill was passed into law so quickly, many in the NJ State Federation of Sportsmen Clubs and multiple other sporting groups weren't even aware of it until it was too late."

Conservation Force, however, was watching. Regina Lennox, an attorney for CF, told me that CF was tracking similar bills across the country and realized that S977 (which banned possession of African "Big Five" CITES trophies in New Jersey) and S978 (which prohibits trophies going through Port Authority facilities) had passed in New Jersey. They immediately wrote a letter to Gov. Christie explaining why he should veto the bills, as they were in conflict with federal law and were unenforceable.

The governor did not respond to their letter, and his veto did not address their key concerns... although he did mention there was evidence that a ban might not be in the best interest of the species. CF sued on July 8, 2016, in conjunction with the Garden State Taxidermist Association, Janelli Taxidermy, and a group of New Jersey hunters. They contended that the state's ban was preempted by the Endangered Species Act (ESA). The applicable law is ESA Section 6(f): "Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively ... prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act." [16 U.S.C. § 1535(f)]

Essentially the suit claimed that under the Endangered Species Act (ESA), states cannot make something illegal that is legal under the ESA. Simplified, if the federal government issues a person a CITES Import permit, no state can make the importation of the covered trophy illegal.

Moreover, in their court papers, CF collected public statements by the law's sponsors which revealed that the law was specifically intended to target and harm hunters. Following passage, one of the bill's sponsors, Assemblyman Tim Eustace, bragged to the press that "(T)he law would cut off a link back to the United States for game hunters intent on importing the dead carcasses of endangered animals. Hopefully making it more difficult for these types of hunters to transport their 'prizes' will give them pause or perhaps even make them reconsider this type of inhumane activity." Lesniak added, "Trophy hunters, stay out of New Jersey." He didn't seem to recognize that we are already here.

My involvement in the CF suit came in a roundabout way. I was trying to determine if there were any exemptions for animals taken before the law was passed. I called Guy Bignell, President of Griffin and Howe, for the contact information for George Dante of Wildlife Preservations, a major New Jersey taxidermist. He sent me to John Meehan at Flora and Fauna. John gave me John Jackson's contact info at Conservation Force, and even sent an email introducing me.

I contacted John at CF and he put me in touch with Regina Lennox, their attorney drafting most of the suit. She told me that I was just the person they were looking for (now I felt special), as they wanted to use the example of an injured party, a hunter with a stranded trophy. I wrote a statement, describing my situation and degree of loss, which became part of their case. To make my case even more effective, I had a CITES permit for the leopard in hand. I was late to the game but I am gratified that I made a small and important contribution nonetheless.

In the end, CF prevailed. On August 29, Judge Freda Wolfson of the U.S. federal court in Trenton entered an Order and Judgment against the State of New Jersey. The Order prohibits the enforcement of the ban against activities authorized by federal law, regulation, or permit. Hunters may continue to import, export, and possess federally authorized Big Four (African elephant, leopard, lion, and rhino) hunting trophies in the State.

The law was in effect for only 90 days. It is difficult to estimate its impact on the countless hunters who had legally taken trophies that were in transit or in process at a taxidermist. I'm sure many, like me, thought their hard-earned (and expensive) trophies were lost forever. The law was illegal, unenforceable, and unnecessary.

There is a lesson here for all of us. For hunters, be careful who you vote for, and pay attention to what's going on in Trenton. For lawmakers, think before you vote. The road to hell is paved with good intentions.

Ed Cartier is the author of two collections of outdoor stories: Breakfast by Moonlight and Then There Was the Time... He is also a big game hunting consultant.

Conservation Force is a non-profit 501(c)(3) public foundation formed for purposes of conserving wildlife and wild places. Conservation Force is an international leader in the application of user-pay, sustainable use-based programs to enhance the survival and recovery of listed game species. Since 1997, Conservation Force and its partners have invested millions of dollars in elephant, rhino, and lion conservation, anti-poaching, and recovery programs for many other species. Conservation Force is based in Louisiana and has an international Board and staff, and projects around the world.



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