



Legal Resolution Finds No Fault

By Brenda Valentine
First Lady of Hunting ©

Archives

For most of my life I've stood up to the threats and slander of anti-hunters while staunchly defending that which I believe is right, never once thinking I'd be the focus of an attack by those who share the same outdoor passions as me. Perhaps my silence has provided fuel for the forum fires and doubts amongst others, however, until the wheels of "justice" slowly ground into action I was not free to discuss it and for those who aren't aware, it usually takes a full year from filming to airing for TV shows. For those of you who, without prejudice, asked for the details of the moose incident, and for those of you who were compelled to send caustic e-mails, here is the story in its entirety.

In mid-September, 2007, I and two videographers traveled to Alaska for a guided dall sheep and moose hunt to be filmed for a TV-show. After a couple of days in base camp we departed on horseback to a remote mountain camp led by two licensed guides. Our focus was on first getting a sheep since that season ended before moose season. This was my first sheep hunt, however, the guides were experienced and the cameramen were troopers. Long story short, I did not get a ram. Some of your comments alluded to the idea that I and others in the hunting industry have no regard to safety or the well-being of game, but that we feel we must take a trophy no matter what the risk. That is very mistaken thinking, for on the last afternoon that we pursued sheep I lay on a rock for hours watching 11 grazing rams on the hillside below. The guides glassed carefully and determined that at least a half dozen were of legal size and age, then gave me the go-ahead to shoot. The cameras were focused on the flock which was within a shootable range, however, I just didn't feel right about the shot. There was a substantial crosswind that shifted to a headwind with what looked like snow in the distance. Knowing full well this would probably be my first and last opportunity to ever shoot a sheep I hesitated about taking the shot. The steep shooting angle, the stiff wind, and the possibility of snow hampering a quick recovery created a risk that was too great to take. I felt as if I'd let the guides down, who had worked so hard to get us in the right position, and the videographers who had carried all the necessary camera gear up the mountain; however, my conscience told me I'd made the right decision by not pulling the trigger.

The next day, with the tops of the mountains under deep snow, we



saddled horses and spent all day searching for moose. We saw several in the small willows above the tree line but no bulls of legal size. The next day started as the day before with sightings of a few young cows and small bulls. There was a thin sheet of mushy snow covering the potholed muskeg so we moved slowly, glassing and calling along the way. In mid-afternoon, one of the guides spotted a bedded bull on the side of a slope. There were five or six cows feeding around him. Both guides felt this bull worthy of a closer look so we hitched the horses to some bushes and proceeded on foot. We stalked as closely as possible with the sparse cover available and the bog that insisted on pulling us under. I don't claim to know anything about judging the size of a bull moose so I left all of that up to the guides. They were equipped with high-end binoculars and a spotting scope. I was looking through good optics and both cameramen were studying the moose through magnified camera lenses. In the time it took for this thorough evaluation, given that the bull was still lying down, the cows either winded us or saw us, became uneasy and walked away. When the cows were almost out of sight, moving directly to our left, the bull stood. This gave both guides a full and clear view from several angles and they both agreed that while he wasn't the biggest bull in Alaska, he was indeed very legal. All five of us had eyes trained on the bull waiting for him to present a good shot angle while also making sure there were no cows left in the area. Finally the bull turned broadside to look in the direction of the cows, which were now completely out of sight, and with a guide on each side of me they gave the "shoot" command. When the bull went down we remounted and proceeded to where he lay. Between him and where we were standing were several large sinkholes so the guides led the way around trying to find safe footing for the horses. They swung around to the left in a large arc in the same general direction the cows had went earlier. As we were slowly riding and picking our way, I heard one of the guides up ahead yell back that she'd found some blood on the snow. The second guide made his way up to the first guide to investigate. As the rest of us were following behind, I heard her call to him that there was a crippled cow and for him to come put her down. The guide pulled his rifle and dispatched the cow before I or the videographers ever saw her. This was about 350-400 yards from where the bull lay.

No one could fathom a cause for the cow having a broken hind leg right above the ankle. Five sets of trained eyes had checked and rechecked the area for any sign of a cow before a shot was ever fired. Professional guides do not take the chance of making a bad decision that could cost them their licenses. I had not one but two guides who studied every aspect of the situation and agreed, before giving me the go-ahead. Hunting in front of a camera demands a higher standard of ethics since every action is recorded. My livelihood demands that I conduct every aspect of a hunt above the parameters of the law while also practicing exemplary ethics and safety. Fortunately, I've hunted for more than 40 years without ever having an accident or blemish of any kind on my record. Afterwards, a frame by frame examination of the video footage revealed that no moose other than the intended bull were anywhere in the vicinity.

Realizing our responsibility to the animal, all five of us quickly went to work to salvage the meat. We quartered both moose and lay the meat on clean humps of snow to cool and marked the location of each with flagging ribbon. We loosely covered as much of the meat as possible with jackets/caps/vests/packs and whatever else we had in an attempt to keep predators from away from the fresh meat. It was long after midnight when we wearily made it back down to the spike camp. Early the next day we returned with two packhorses to carry the meat off the mountain. Thankfully, neither bears nor wolves had discovered the fresh meat and we safely retrieved everything back to our spike camp.

The following day we broke camp and rode out. Once we arrived back to the lodge where there was phone service, a call was made to the proper game authorities and we reported the incident. The next day I and the two cameramen were picked up by an air charter service and taken to town where I met with the trooper and relayed the story to him again. He agreed that this was an accident, definitely not a criminal act, and thanked us for being honest in reporting it. He also commended us for the hard work everyone put forth in salvaging the meat and bringing it out of such a remote location to a place where it could be reached by plane. The outfitter used his private plane to fly the meat into town and turned it over to the proper authorities for distribution to the needy. Everyone, including wildlife officers, outfitters and experienced hunters offered speculation about the incident. One theory was that the cow broke her leg traversing the treacherous terrain, perhaps spooking from the sound of

the rifle. Another theory was that maybe the injury had been sustained from other hunters who'd previously been in the area. More than one outfitter told me of occasionally finding cows that were injured during the rut. And, there was also a slim chance of a ricochet bullet from my gun. The truth was then, as it is today, that no one will ever know how the cow sustained a broken leg. Accidents happen to animals just as they do to with humans but most often it is never witnessed and the weakened animal is taken down by weather or predators. In this situation everyone stepped up and did what we felt was the right and moral thing by putting a crippled animal down and salvaging the meat.

The trooper to whom we reported the incident assured me that since we'd self-reported and surrendered the meat this would be the end of it. How wrong that was. In a few weeks I received a notice that I was being charged with shooting a cow out of season. This came as a big surprise since it wasn't even I who shot the cow and it was only done by the guide out of compassion and duty. At the hearing, I was told this case was considered a random accident with no criminal intent, and would carry the minimum fine of \$100. I felt then, as I do now, that the wording of the charge was incorrect, so I pled not-guilty. Since this was my first time in court, it was pretty intimidating. I learned that by pleading not-guilty I would need a lawyer to represent me. I had to laugh when I read that some of you think I am a retired judge. I have no idea how that got started but I can assure everyone that this is another falsehood. In reality, I don't even know any judges and very few lawyers. I asked the outfitter to help me locate legal representation. He went to the Alaska Outfitters Association for suggestions and I followed their advice.

One thing I learned is that our legal system works at a slow pace. This case was repeatedly postponed. The first assigned District Attorney went on maternity leave so there was a delay until the second one could try to figure out what course to take in this unusual situation. Before the next court date arrived the second DA retired, which caused another lengthy postponement. Finally, a third DA was assigned to the case and after nine months it looked as if we might be making progress in closing the case.

My attorney explained to me that I was being charged with a violation, not a crime, which is comparable to a parking ticket with a minimal fine. If I continued to plead not guilty the case would go to trial and be delayed for another undetermined time while guides, cameramen, outfitter, hunters, wildlife officers, character witnesses, professional witnesses, etc. would be subpoenaed and brought to this small remote town. I simply did not want to put everyone through this headache and expense. The only other resolution option was to plead no contest and pay the \$100 fine. Second to the death of my parents, this situation has been the most distressing event I've struggled through. I felt trapped in a snare of bureaucratic red tape and just wanted it to be over, even though I still contended that I was not responsible of wrong doing of any kind.

I have a letter from the State of Alaska which says no evidence of criminal misconduct was found in the case and that it appears the death of the cow moose was an innocent and random accident which could have resulted from a ricochet. Accordingly, it was determined that the case should be charged as a violation, not a crime, and that a \$100 fine was a fair penalty. They took into consideration the fact that I was on a guided hunt and that I followed the advice and instruction of guides, and that I took active steps to avoid wounding or killing any animal other than the target bull, that another person shot the cow and put her down, and that the guides and I took it upon ourselves to self-report the accident and salvage the meat.

I might add that the sizable cost of retaining an attorney for this lengthy time came out of my own pocket. It is a common misconception that everyone on TV is wealthy. While I am not a rich person in terms of money, I consider myself very wealthy in that I enjoy good health and a loving family that includes four grandchildren who are a constant source of joy. It has certainly been enriching for me to teach Hunter Education for many years and to take literally hundreds of kids, women, and non-hunters on their first hunt or assist them in shooting their first bow or gun. The rewards I've gained from taking the time to assist disabled persons on hunting or fishing ventures has been immeasurable. The smiles I've received when sharing my equipment with those less fortunate so they too could enjoy the outdoors has been more than enough payment. The hugs and wide-eyed attention I get when presenting outdoor programs at schools, churches and other youth groups is a source of wealth that'll last much longer than money. However, I consider

one of greatest riches of all the freedom to hunt, fish, trap and own firearms. I sincerely fear that if every one of us who treasure this freedom does not quit the senseless accusing and bickering and stick together, we will see the day when this freedom is taken away from us.

STATE OF ALASKA

SARAH PALIN, GOVERNOR

CRIMINAL DIVISION / FOURTH JUDICIAL DISTRICT
OFFICE OF THE DISTRICT ATTORNEY

Please Reply To:
David A. Carlson, Assistant District Attorney
Northward Building
455 Third Avenue, Suite 150
Fairbanks, Alaska 99701
Phone: (907) 451-5970
Fax: (907) 451-5990

May 15, 2008

To: Brent Cole, Esq.
Marston & Cole, P.C.
821 West 4th Avenue, Ste. 208 Anchorage, Alaska 99502

Re: SOA v. Brenda Valentine
Case No: 410-07-143 CR

Dear Mr. Cole:

In accordance with our discussions in this case, I want to thank you and your client for your work in resolving this difficult case in an amicable manner. Trooper Jones and I have now had a chance to review the DVD of the hunt that you and your client voluntarily disclosed and we continue to concur with the initial charging decision.

We do not find any evidence of criminal misconduct by your client in this case. As you and your client have contended, it appears that the death of the cow moose during this hunt was an innocent and random accident which certainly could have resulted from a ricochet shot at the bull moose. Accordingly, we have determined that this case should be charged as a violation, not a crime, and we are agreeable to your client receiving a \$100 fine as a penalty and forfeiture of any interest in the cow moose. In coming to this determination, both the Trooper and I considered the facts that your client was on a guided hunt at the time, that she followed the advice and instruction of the guides and assistant guides, that she took active steps to avoid wounding or killing an animal other than the target bull, that another person shot the cow and put her down, and that she and the guides took it upon themselves to self-report this accident and that they salvaged the meat as required under the law.

If this proposal is acceptable, you can schedule this matter for a telephonic change of plea and sentencing before the Tok magistrate. Upon resolution of this case, I will either mail the DVD back to you or you may arrange to pick it up when you are passing through Fairbanks. Please feel free to contact me if you have any questions or concerns.

Very truly Yours,

TALIS COLBERG
ATTORNEY GENERAL

By: 
David A. Carlson
Assistant District Attorney