

FILED
02-05-2021
Clerk of Courts
Fond du Lac County WI
2021CM000058

STATE OF WISCONSIN CIRCUIT COURT FOND DU LAC COUNTY

STATE OF WISCONSIN

Plaintiff,

vs.

SHAWN M WENDT

██████████
Oakfield, WI 53065

DOB: ██████████

Sex/Race: M/W

Alias:

Defendant.

DA Case No.: 2020FL001293
Assigned DA/ADA: Douglas R. Edelstein
Agency Case No.: 17-C171-003
Court Case No.:
ATN:

CRIMINAL COMPLAINT

For Official Use

The undersigned law enforcement officer of the Wisconsin Department of Natural Resources, being first duly sworn, states that:

Count 1: UNLAWFUL SALE/DEER,BEAR,GAME FISH

The above-named defendant did on or about and between February 10, 2018 and February 25, 2018, Fond du Lac County, Wisconsin, did sell, buy, barter or trade, or offer to sell, buy, barter or trade or have in possession or under control for the purpose of sale, barter or trade deer, bear, squirrel, game bird, game fish or the carcass of any of these wild animals, contrary to sec. 29.539(1)(a)1, 29.971(5) Wis. Stats., a Misdemeanor, and upon conviction shall be fined not less than One Thousand (\$1,000) nor more than Two Thousand (\$2,000) or imprisoned for not more than six (6) months or both. In addition, the court shall order the revocation of all hunting and sport fishing approvals issued to the person under this chapter and shall prohibit the issuance of any new hunting or sport fishing approvals under this chapter to the person for five (5) years.

Count 2: UNLAWFUL SALE/DEER,BEAR,GAME FISH

The above-named defendant did on or about and between February 9, 2019 and February 24, 2019, Fond du Lac County, Wisconsin, did sell, buy, barter or trade, or offer to sell, buy, barter or trade or have in possession or under control for the purpose of sale, barter or trade deer, bear, squirrel, game bird, game fish or the carcass of any of these wild animals, contrary to sec. 29.539(1)(a)1, 29.971(5) Wis. Stats., a Misdemeanor, and upon conviction shall be fined not less than One Thousand (\$1,000) nor more than Two Thousand (\$2,000) or imprisoned for not more than six (6) months or both. In addition, the court shall order the revocation of all hunting and sport fishing approvals issued to the person under this chapter and shall prohibit the issuance of any new hunting or sport fishing approvals under this chapter to the person for five (5) years.

PROBABLE CAUSE:

On Friday, January 31, 2020, at approximately 8:00AM, Conservation Warden Nicholas G. Miofsky reports that he interviewed Shawn M. Wendt (DOB: 12/14/1969) at Wendt's on the Lake in Van Dyne, Fond du Lac County, Wisconsin regarding an ongoing investigation into sturgeon caviar/roe processing. I was dressed in full uniform; WENDT and I talked at a table inside the restaurant where he recorded the interview.

Warden Miofsky reports that he explained to WENDT that leading up to the sturgeon spearing season he was following up with caviar processors to discuss their processing activity and answer any questions they might have. Warden Miofsky noted that WENDT provided the following information during the interview. WENDT explained how he processes caviar. He uses a dual screen system to clean the eggs and remove the membrane and blood from the eggs. He rinses the eggs on one screen then they fall into a bottom screen once cleaned. He then adds salt to the eggs and lets the eggs dry. WENDT has been processing sturgeon caviar for approximately 15 years. He has also been serving sturgeon caviar in his restaurant/bar for approximately 15 years. He processes the caviar at a friend's house, Norbert A. Hartman, and WENDT's son

also helps process caviar. WENDT went on to say the processing takes approximately two hours to complete then about another two hours to let the eggs dry before they are placed in 8oz jars. WENDT said if someone brings in about 30 pounds of eggs they can expect to get about half the amount back. WENDT said during the process a lot of eggs are lost through the screen or broken; it all depends on how delicate/careful you are during processing.

Warden Miofsky further reports that WENDT said he has been processing for 15 years and people know he processes. He gets his eggs to process through word of mouth. People contact him or refer people to him. WENDT said there are not many other people in the immediate area that process sturgeon eggs. He said there are a couple groups on the east shore and in the Oshkosh area that process eggs. WENDT does not know everybody that brings him eggs to process. He said he would either know them or the person would be referred to him by someone he knows. WENDT said he does not charge money for processing eggs.

Of note, when Warden Miofsky asked how much he charges for processing, WENDT said, "You can't charge. We don't charge nothing." Warden Miofsky asked WENDT what he gets in return for processing caviar. WENDT said the only thing he gets is caviar back from the person. He serves the caviar he gets back at his restaurant or at his Lake Watcher party. WENDT said when he gives the processed caviar back to the customer; they usually give him back jars of caviar. The people usually take what they can eat and then give the leftovers to WENDT so they do not go to waste.

Warden Miofsky reports that WENDT said he likes to put the caviar out at the bar with crackers for people to try and then serves it at his parties. WENDT said he does not charge customers for the caviar when he serves it at his bar. He likes people to be able to try sturgeon caviar. WENDT only keeps the caviar for approximately three months in the refrigerator. He will try to serve it all at the bar or at his parties within three months or he dumps it. He does not like to freeze it. He said the caviar does not taste good once it is frozen and then thawed. Warden Miofsky asked WENDT if he had any caviar in his freezers at this time. He said he did not have any with him, but hopes to process some eggs during the upcoming sturgeon spearing season to get some caviar. He generally tries to serve all his caviar by April. He has his Lake Watchers party in April and will serve what he has left at this party. The Lake Watchers party is held at his bar and approximately 70 people will come drink and eat and they raffle off prizes. WENDT said he tries to get a couple fish every year to process. Last year he processed four sturgeon. WENDT said four sturgeon is a lot to do in a year. WENDT said he hopes to get at least one fish a year so he can have caviar to eat. He has turned people away when asked to process sturgeon eggs. If he already has enough eggs to process he will turn people away.

Warden Miofsky asked WENDT when he turns people away does he refer them to someone else. WENDT said he doesn't really know anybody in the area to refer them too. He mentioned again there are a few people on the east shore and in Oshkosh that process eggs. He also mentioned there are people within the DNR that process eggs too. WENDT said out of the sturgeon he would process, he would give the person back the processed caviar and they would usually give him some caviar. The caviar he received he would serve in the bar. Warden Miofsky asked WENDT if prior to processing the caviar does he prearrange with the person to process the caviar for a certain amount/percentage of the caviar back. WENDT went on to say, they process the caviar at Hartman's house, then Hartman brings the caviar back to WENDT at the bar. WENDT then gives the person the caviar and they take what they want, and give WENDT what they don't want. WENDT said if they want to take all of the caviar they can. WENDT said most of the time they give him some caviar because it is a lot of work to process. Prior to processing the caviar WENDT said he does not discuss a price or a prearranged agreement to keep some caviar after the processing is complete. WENDT said he will get the person's phone number and call them when the caviar is filed complete so they can pick it up.

Of note, Warden Miofsky was informed that the drop of and pick up is done at WENDT's bar. WENDT does not weigh the eggs when they come in. There is not an expectation the person will get a certain amount of caviar after the processing is complete. When the caviar is finished the person will take what they want, and WENDT will take what is left over. On an average size sturgeon he will get approximately 20 jars of caviar. WENDT said he will give the person the jars of caviar once it is finished. After he returns the caviar to the person he

said he will tell the person "right out" he likes to serve caviar at his bar to his customers and at his party. He said, "I tell them right out, if you could leave us some (caviar) for processing." He does this after he gives all the jars back to the person. Once he gives the caviar back to the person he does not know what they do with it. WENDT said once he hands the caviar back to the person "It's out of my hands." Wendt stated has had people offer him money for processing the caviar, but he tells them he can't take money. He will tell the person to go buy jars, if he needs jars. WENDT said sometimes the person will buy them beer for processing the caviar.

Warden Miofsky noted that Wendt reports that people come into the bar at times and offer to buy sturgeon caviar from him. He tells them he can't sell it to them, but he will give them a jar. WENDT said he normally keeps 40 to 50 jars in his refrigerator at his bar. Last year WENDT processed four fish and said he had approximately 40 to 50 jars on hand. WENDT said he has never had anybody come to his bar asking to buy a large quantity of caviar. WENDT said he spoke to a warden about five or six years ago about processing caviar. The warden told him he could not process caviar for an agreement that he keeps half and gives half back to the customer. WENDT said before he spoke to this warden he was processing caviar this way; he would agree to process the caviar if he could keep a certain amount of the jars. WENDT said people normally give him jars once the caviar is returned to them. WENDT said he will tell them processing the caviar is a lot of work; making it sound like he prompts them to give him some jars.

WENDT said he will often times remove the eggs from the fish for the person. WENDT mentioned again that the DNR will remove the eggs too and they process eggs.

Warden Miofsky then discussed with WENDT that it is illegal to serve sturgeon caviar in his bar for customers and at his parties held in the bar. Warden Miofsky directed WENDT to the DNR website to find information on applying for a Wild Game Feeding permit. WENDT said he would look at the permit process. Then he mentioned if he cannot serve sturgeon caviar at his bar he is going to stop processing caviar. The main reason he processes sturgeon caviar is to obtain caviar to serve at his bar.

At the end of the interview WENDT and Warden Miofsky discussed the conversation he had with the warden five or six years ago and the legality of bartering for a percentage of the caviar after the processing is complete. WENDT mentioned he doesn't barter with the customer when the eggs are brought in, but he will sometimes have the person purchase the jars or buy him beer for processing the caviar. We then discussed the legality of charging people money for processing the caviar.

Warden Miofsky asked Wendt if he knew Donald Chrapla, but after thinking about it, Wendt indicated he didn't know him, and the name didn't sound familiar.

On Tuesday, October 29, 2019, Wisconsin Investigative Conservation Warden Ryan Propson arrived at N5871 Grandview Rd, Fond du Lac, WI 54937, as part of an investigation into roe from black egg female sturgeon registered at the Indian Point DNR registration station. Upon arriving at the residence, Warden Propson was met in the driveway by a male individual, identified as Donald Chrapla.

Warden Propson explained that he was aware that he'd harvested a black egg sturgeon in 2018 and registered it at Indian Point. Warden Propson asked him what he'd done with the eggs from the fish. Chrapla showed pictures of the sturgeon on his cell phone and explained that he was spearing with his friend Dwight Paulin who also speared a black egg sturgeon.

Warden Propson reports that Chrapla provided the following information. Paulin decided to process his eggs himself so they talked to Shawn Wendt and obtained the recipe to make caviar. They made it at Chrapla's house, but didn't do it correctly and it didn't turn out. Chrapla contacted Wendt to have his roe made into caviar. He explained that he was aware that Wendt makes caviar from going to Wendt's (Wendt's on the Lake) for fish fries. Chrapla explained that Wendt didn't want to make the caviar because he already had enough eggs, partially because people in his spearing group had gotten black egg sturgeon. Chrapla said a friend of Wendt's,

who was at that bar, agreed to make his eggs into caviar for 15% of the caviar. He said that this guy kept six (6) 1/2 pint jars as payment and he got 15, 1/2 pint jars back. Chrapla didn't know who this person was because the contact was made through Wendt. He explained that when the caviar was done Wendt called him. Chrapla then picked up the caviar at Wendt's on the Lake. While he was registering his fish at Indian Point, there was a guy there who was handing out recipes on how to make caviar and said that if Chrapla wanted, he'd make the caviar for him and keep some as payment. This guy was also handing out cards saying that he'd make caviar. He said he didn't want to be paid but would keep some caviar as payment. Chrapla said he knew it was illegal to sell or barter for the eggs and then asked if it was illegal to keep some of the caviar for processing. Warden Propson explained that it would be considered a barter and would be illegal. Chrapla said that he thought that since Wendt went through all the work, it was ok.

The statements by law enforcement personnel are truthful and reliable as these statements were made by law enforcement acting within the scope of their official capacity. The statements made by Wendt are truthful and reliable insofar as these statements were made against his penal interests.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me on 02/05/21
Electronically Signed By:
Catherine Block
Assistant District Attorney
State Bar #: 1053966

Electronically Signed By:
Investigative Conservation Warden Ryan M.
Propson
Complainant