

CR-2004-7
State vs. Meister

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From 1990 to present, as per statute and the Wyoming Game and Fish regulations, one could be a resident if that person was domiciled and was a resident and did not claim residency in another state for any other purposes during the year immediately preceding license application.

CIRCUIT COURT OF FIFTH JUDICIAL DISTRICT
PARK COUNTY, WYOMING
Clerk

In 1989/1990 I personally visited the Cody office of the Wyoming Game and Fish. I questioned officials about maintaining my Wyoming residency/domicile while living and working in Utah. I was informed that I could legally maintain my Wyoming residency. I relied on the interpretations of the statutes made by representatives of the Wyoming Game and Fish since 1990 to maintain my Wyoming residency. Since 1990 I have had several encounters with game wardens in the field, and conversations regarding my residency in Wyoming. Their interpretations of the relevant statutes have been consistently that I was **not in violation** of the law. There was never a problem until 2001 when I was stopped by warden Sax.

August 2, 2001 Sax stopped to check fishing licenses. As he was leaving he questioned the Utah registration on my quad-runner and my Wyoming resident fishing license. We then had a conversation regarding the definitions of residency and domicile, and the problems with the statutes, that lasted about one hour and forty-five minutes. I finally asked Sax what he wanted me to do. He said I could continue to fish. He said that he could not say that I was in violation. He did not cite me, take any of my equipment, or even take my license.

In the motion hearing Sax said that it was clear to him that I was in violation of the statute on the day he stopped me. He claimed it was a professional courtesy that he did not cite me that day. Professional courtesy does not explain why he did not at least take my license, or why he said it was O.K. if I continued to fish. If Sax was as convinced of a violation as he claims, then he should not have sanctioned further criminal activity.

Sax testified that the statute was clear and that any changes to the statute were to just make it "more clear". Why does it need to be made "more clear" if it is already clear?

Warden Sax testified that Wyoming Game and Fish officials have a uniform interpretation of the statute. His testimony was contradicted by his statements on August 2, 2001. According to the testimony of three defense witnesses, on August 2, 2001 Sax made several statements as to what a mess the statutes were. He said that he was aware that other game wardens had different interpretations of the statutes and conceded that other wardens were giving people different interpretations of the same statute. Sax said that legislative attempts to clarify the statute in 1998 only made it more confusing.

The following arguments lend support for the defense's motions to dismiss for violations of speedy trial, statutory vagueness on its face; or as applied, equal protection, and due process. The speedy trial argument and the unconstitutionally vague argument somewhat dovetail each other.

If the two statutes are as clear as warden Sax claims, and if it was clear that I was in violation of those statutes, as he claims, then he should have and could have cited me on August 2, 2001. He should have, at the least, taken my fishing license and warned me not to continue fishing. August 2, 2001, Sax agreed that portions of the statutes that existed in 1990, and that were retained in the 1998 amendments, could be interpreted consistent with me qualifying as a Wyoming resident. He said that I could continue fishing and that he could not say that I was in violation. If the statutes were so clear and he was convinced that I was in violation then he

- 1 could have cited me
- 2 could have taken my license
- 3 shouldn't have told me to continue fishing if I was in violation
- 4 did not have to call Utah Division of Wildlife Resources investigator Larry Marx in Salt Lake City two months later (Oct. 2001).
- 5 did not have to call or e-mail Utah Division of Wildlife Resources Sgt. White in Salt Lake, one year later, asking him whether I was domiciled in Utah
- 6 did not have to take two and one half years to file charges and to continue to investigate

- 7 did not have to write comments for his office to present to the legislature regarding changing the statutes if they were so clear. His testimony was that his comments were in part based on my case and the conversations he had with me regarding the conflicts between the statutes

These concepts will be discussed in more depth later on.

If it was clear that I was in violation of the statutes, and the statutes were clear, as Sax testified, then the alleged violations from August 2, 2001 should not have taken two and one-half years to file. The prosecution claims that Sax worked with due diligence. No need for due diligence or extensive investigation, prior to the filing of charges, if it was so clear, and if one is to believe Sax's testimony that on August 2, 2001 he had all the information that he needed to know I was in violation. Despite me giving Sax the names of several witnesses on August 2, 2001 who could verify my story, Sax interviewed only one of them in 2½ years. He knocked on the door of witness Donovan Allen once and found him not home. Not until two years later did he go try to interview witnesses provided to him on August 2, 2001. And while understandable that mine is not his only case, two and one half years for a case which he claims was clear on the day he stopped me is problematic.

July 26, 2004, Sax testified that he had all the information that he needed on August 2, 2001 to know that I was in violation. Yet Sax contacted the Utah Division of Wildlife's investigator, Larry Marx in October 2001, two months later, asking him to assist in getting more information. Sax did not remember ever talking to investigator Marx, despite having talked to him on three separate occasions and having a written a report of his conversations. After given the chance to review his report (four to five minutes for a very short paragraph of text), Sax testified that Larry Marx, and an investigator named William Woody, interviewed me. Sax testified, and wrote in his report, that they clearly determined that I was domiciled in Utah and not a Wyoming resident.

Investigator Larry Marx was called by the defense to testify. He was the head of law enforcement for the Utah Department of Wildlife Resources. Larry Marx testified that he was called by Sax and asked for assistance. He testified that Sax told him that I was hunting and fishing in both Utah and Wyoming, and purchasing resident licenses in both states. He testified that he, and the chief investigator for the Utah Division of Wildlife Resources, William Woody, interviewed me. He testified that he and Woody were upset that Sax had misrepresented the facts when he called. In their investigation it was determined that I had only purchased non-resident licenses in Utah. Marx testified they **did not** consider me to be a resident of Utah. They considered me a Wyoming resident. Marx testified that what Sax had written in his report was not true. That Marx did not and would not have said what Sax claims he said. He testified that his and William Woody's conclusions were basically the exact opposite of what Sax had written in his report. Marx concluded that their final opinion was that I was not in violation of Utah or Wyoming law and that I should be able to hunt as a resident in Wyoming.

If the violation was clear on August 2, 2001, there wasn't any need for warden Sax to contact investigator Marx two months later requesting more information. And if it was honestly clear to Sax that I was domiciled in Utah, and not a Wyoming resident, then no need to contact Utah authorities. And if Investigator Marx actually told Sax that "he is convinced that Vincent B. Meister is not domiciled in Wyoming", and "he is certain of Vincent B. Meister's domicile being in Utah", then there should have been no reason for Sax to again contact Utah authorities in August 2002. One year later, August 2, 2002, warden Sax contacted Sgt. White of the Utah Division of Wildlife resources. He made several contacts with Sgt. White. In one of the e-mail messages to Sgt. White, Sax asked White if it was true that I was **not** domiciled in Utah. He goes on to say that if I wasn't domiciled in Utah, imagine the ramifications. That all their salaries and department financing is in large part paid thru the license fees. That the ramifications of such a claim were so far reaching it could bankrupt them.

Sax's comments to Sgt. White bring into question the credibility of his report and his testimony regarding his conversations with investigators Marx and Woody. His e-mail to

Sgt. White clearly shows that even one year after Sax checked licenses he was unsure of the violation and of where I was legally domiciled. If investigator Marx truly said what Sax claims, then there was no need for Sax to contact another Utah officer another ten months later. Sax already had this alleged damaging statement from the head of the department. And instead of his second call being back to the department head, investigator Marx, or to the chief investigator William Woody, Sax contacts Sgt White. Arguably because he did not get the answer he wanted the first time, or the statement he claims to have gotten, from Marx and Woody. More likely he was given the statement that Marx testified to. Furthermore, the testimony was that Marx was not asked to write a report for Sax, even though he and Woody interviewed me for one and one-half hours.

Warden Sax requested tax law and tax records from Utah. Those records defined domicile. The State took issue that I did not sign or check my Utah tax returns as a non-resident. **By Utah law I was unable to sign my tax records as a non-resident. Though I did not "claim" residency, I would have been in violation of Utah law if I claimed to be a non-resident on my tax forms.** For tax purposes, Utah resident is defined as follows: "Even though domiciled outside Utah, maintains a permanent place of abode within the state and spends a total of 183 days or more of the taxable year within Utah". "All income received during the period of residency is taxable in Utah, regardless of the source of that income".

Domicile is also defined under the same tax code. "Domicile is the place in which a person has voluntarily fixed the habitation of himself and family, not for a mere special or temporary purpose, but with the present intention of making a permanent home (28 C.J.S. Domicile Section 1). After domicile has been established, two things are necessary to establish a new domicile: first, an abandonment of the old domicile: and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile: for before a person can be said to have changed his domicile, a new domicile must be shown."

I have made the argument that I reside in Utah and have voluntarily fixed the habitation of myself and family in Utah for the mere special or temporary purpose of employment. This coincides with not only Utah law, but with Wyoming law, and with the statutes in question. Utah does not consider me to have abandoned my Wyoming domicile, or to have established a new domicile. I have never intended to abandon my Wyoming domicile. I have never intended on establishing a new domicile in Utah. Therefore, if I were to purchase resident licenses in Utah I would be in violation of Utah law because Utah does not consider me domiciled there. I have always purchased non-resident licenses in every state that I hunt and fish, except Wyoming. I always pay the significantly higher non-resident fees in those states.

The uncontraverted evidence is that I was a resident and was domiciled in Wyoming for at least thirty-one years. There was no evidence of my intention or establishment of a new domicile. For me to have abandoned my domicile in Wyoming a new domicile must be shown. Larry Marx told Sax they did not consider me domiciled in Utah, but rather in Wyoming. Warden Sax tried to get the Utah officials to say that I was domiciled in Utah. It is clear that Sax did not get that opinion from department head and investigator Larry Marx. For whatever reasons, Sax sought a second, divergent, opinion from Sgt. White; an opinion that he did not get. What seems clear is that warden Sax was still uncertain of my place of domicile one year after he checked my license in August 2001.

In 1994 the Wyoming Game and Fish investigated me for the same allegation. Sax's testimony was that it really wasn't investigated, that there was a shift in personnel, and the case fell thru the cracks. This defendant should not be punished or suffer because of the lack of organization in the Wyoming Game and Fish, if that is in fact what happened. In fact, the case was investigated. The complaint originated to Casper. It was found, thru investigation, I was from Cody. The report was sent to the Cody office. Wardens in Cody called The Utah Division of Wildlife Resources in Salt Lake. They talked to investigator William Woody, who coincidentally was part of the 2001 investigation. In 1994 the Wyoming Game and Fish had exactly the same information that they had in

2001. The only thing that changed was seven more years of buying resident Wyoming licenses, and the purchase of non-resident licenses everywhere else.

The 1994 case was investigated, despite what warden Sax claims. Utah and Wyoming investigators exchanged information. Wyoming Game and Fish investigators generated a report. Wyoming knew that I worked, paid taxes, had family, and a house in Utah. They knew where I worked and for how long. They knew that I claimed residency in Wyoming. That I bought non-resident tags in Utah. That my resident address on my Wyoming licenses was the same. That Utah did not consider me to be in violation of the law. Yet no charges. There wasn't even enough of a concern that I may be in violation that I was ever contacted by Utah or Wyoming authorities in 1994. If the violation is so clear, as Sax claims, and the information from 1994 to 2001 is almost identical, then it should have been just as clear in 1994. The Wyoming Game and Fish should have acted, instead of allowing me to continue purchasing resident licenses in violation the law that seems so clear. It is more likely, or just as likely, that the Game and Fish officers in 1994 did not see a violation, and were some of those wardens who interpreted the statute differently than Sax. Note again that Sax admitted in 2001 that other wardens had a different interpretation of these same statutes and were giving people those differing interpretations. This will also be illustrated by the legislative debate when the law is changed in 2002-2003, to be explained more fully later.

There is some legal authority that one has to not only be prejudiced by the delay, but there has to be gain of tactical advantage, or an intent to gain tactical advantage, by the delay. If in fact I was in violation of the law in 1994, the Game and Fish had an affirmative duty to stop any criminal activity and put a stop to it with due diligence. Had I known that I was in violation of the law I would have ceased any unlawful activity and avoided another seven years of licenses violations. And while I argue that they did investigate and found no violation, even if they did find a violation they had a duty to stop any unlawful activity. By not doing so they acquiesced in that activity. Further, even if one were to believe that the case fell thru the cracks due to a shift of personnel, the fact remains that the Game and Fish as a whole, or the case manager to whom the

case was then assigned, had an affirmative duty to follow thru. It appears on its face, a violation of due process, to say that it is ok to prejudice a person with additional criminal charges because a police authority failed to act, when and where they easily could have acted. Subsequent to 1994 I made application with the Wyoming Game and Fish for resident hunting licenses. I was never notified of a prior problem. I was actually given instructions by Wyoming Game and Fish personnel on how to apply for the special permits. In fact I was informed that the process that I was going thru was correct and lawful. At least after 1994, the Wyoming Game and Fish had the ability to put my name in a computer, or to put some trigger in the system, if my applications for resident licenses were a problem. The State even recognizes that I made special applications thru the State in 1996 and 1998 for special permits.

The State has gained a tactical advantage by the delay, even if unintended. Witnesses' memories have faded, the State has been able to accrue additional charges, and at least one of the defense witnesses who purchased resident licenses under similar circumstances, and with the advice of Wyoming Fish and Game officials, has passed away. Arguably the state was able to gain a tactical advantage, knowing that witness availability and witness memories become problematic with the more time that passes.

Even though several defense witnesses were able to give details of encounters with Wyoming wardens, the State made issue of the fact that I was only able to remember the name of one warden who checked my licenses in the field. In discovery we asked for the names of the wardens in the areas at relevant times. The State's response was that it was unduly burdensome to provide that information. The court ordered the State provide the names of wardens and where they could be contacted. That had not been provided by the final pre-trial on 8-27-04. Even the State's witnesses' memories fade with time. Warden Sax wrote his report two months after the incident. He failed to put the names of two of the witnesses, who were present with me on August 2, 2001, in his report. He could not accurately remember their names when he took the stand in the motion hearing on July 27, 2004. Warden Sax did not even remember talking to investigator Larry Marx, or any

of the details of their conversations. Yet he had talked to him three times and wrote a report of their conversation. He had to read his report to refresh his recollection.

Arguably the State gained another tactical advantage and it was intentional. During pre-charge discussions, the prosecution and the defense discussed the problems with the statutes and the filing of a declaratory judgment for clarification. There was discussion of resolving the case wherein the Wyoming Game and Fish would take the opportunity to change the statute legislatively, instead of having it challenged in court and facing the possibility of having it changed judicially, or ruled unconstitutional. The prosecution and Sax agreed that legislative changes to the statute would be preferable to judicial changes. While charges were pending, the Wyoming Game and Fish and legislators began talking and revising the statutes in question. The discussion that went on in the legislative debates, and the presentations made by representatives of the Wyoming Fish and Game, echoed the concerns the defense expressed on several occasions in this case, to warden Sax and to the prosecution.

In 2003, legislation passed that changed the statutes in question and dealt with many of the issues at hand in this case. It was not until after the legislation passed that the State charged this case. By charging the case after the statutes had been changed and the legislation passed, the State and the Wyoming Game and Fish was able to significantly minimize any impact that would occur if the court ruled that there were problems with the current statutes. Should a court rule that there were problems with the statutes, they would already have a new law ready to replace it. If such legislation was not in place, and a court found the current statutes unconstitutional, or lacking, the state and the Wyoming Game and Fish would have at least one year, and possibly two years, with statutes that they could arguably no longer enforce. Warden Sax admits he wrote comments to Game and Fish officials in the Southeastern District that were to be considered regarding legislative changes in the statutes, admitting existing problems with the residency statute. He further stated those comments were, in part, based on his conversations with me and the conflicts we discussed in the statutes.

The legislative changes significantly changed the statutes, eliminating many of the residency/domicile distinctions. If the current statutory language already does not allow for "new residents, past residents, and part time residents" to qualify for resident licenses, then there was no need to change that language. As you will see in later argument, the Wyoming Game and Fish, prosecutors and judges recognized that the current language did allow these categories of persons to purchase resident licenses. The current legislative changes that take effect January 2005 (because this year's licenses and applications were already submitted) will prevent many people from getting resident licenses that were, in the Wyoming Fish and Game's own words, "qualifying for resident licenses". Many of those who have legally qualified in the past will no longer legally qualify for resident licenses. Regardless of whether they paid non-resident tuition, didn't claim residency in any other state for any purpose, regardless of what lengths one has gone in the past to maintain residency; under new law, to get a resident game or fish permit one must physically reside in Wyoming for at least 180 days per year. There is still a student and military exception. One has to have not only the indicia of residency/domicile, but to also physically reside in the state for 180 days every year to qualify for resident licenses. Who monitors the 180 days goes unanswered. With all of the "snowbirds" in Wyoming who travel outside the state for significant periods of time, it appears that many of those who qualified for resident licenses in the past will now have to pay non-resident fees, regardless of how long they have been domiciled in Wyoming. Domiciled people currently residing in Wyoming, whose jobs require them to work and reside outside of the state for more than 180 days per year, will arguably no longer qualify for resident licenses. The trial court believes under the law that our Wyoming politicians are different; therefore this statute does not violate equal protection. While we agree they should qualify, neither the current law, nor the new legislation, recognize any exception for politicians. Nonetheless, the state has gained an additional tactical advantage of generating more income for the Wyoming Game and Fish, whose wardens' salaries and expenses appear to be paid out of license fees. People once qualifying for resident licenses will now have to pay significantly higher fees.

What became clear at the motion hearing on July 26, 2004, and more so in the discovery process subsequent to the motion hearing, is that there were long standing problems with the relevant statutes. It was Sax's testimony that the changes were to make the statutes "more clear". His testimony conflicts with his own department representatives, who conceded significant problems with the statutes, and who were some of the strongest proponents for the changes. One only has to compare the two versions of the statutes to see that the changes were significant, contrary to warden Sax's testimony. The following paragraphs, from an outline handed out to legislators, fairly well summarizes the Wyoming Game and Fish's concerns. The outline was prepared and presented by Wyoming Game and Fish representative Steve De Cecco in May 2003.

Relevant paragraphs are as follow:

"1997: Wyoming State Representative Bud Betts contacted Deputy Director Bill Wichers about his concerns about people who own homes and claim residency in Wyoming but only live in the state for a few months each year. Rep. Betts wanted to sponsor legislation to tighten up the residency requirement for these situations. He referenced the 183 day requirement for tax purposes. This concept ultimately led to HB 084.

1998: G & F assisted with development and review of HB 084 that created a new statute (W.S. 23-1-107) titled "Residency for obtaining game and fish licenses"...

1998-2003: Operating under the existing statute and Regulation. Determining residency and enforcing the law remains a challenge. There is a high interest with **new residents, past residents, and part time residents qualifying for resident hunting and fishing licenses (emphasis added)**.

Some judges and prosecuting attorneys find difficulty interpreting residency because there can be many variables in each situation. Some are uncomfortable with strictly interpreting domicile, resident, and intent."

"Enforcement and Interpretation Challenges:

...There have been numerous requests to the Attorney General's Office for interpretation of the residency laws. Some of these opinions were to clarify the intent of the law, some to define "resident", and some were to determine if certain groups of citizens were qualified.

Occasionally, courts in Wyoming have struggled to apply the law in certain cases. Determining a person's domicile in a state can be difficult. In today's culture people move frequently, travel more, may have more than one home, and work or own businesses in states other than their permanent domicile. We see an increase in people who want to become residents of Wyoming or maintain their status after they leave the state."

Lincoln County deputy prosecutor Jim Sanderson concurred with the Wyoming Game and Fish that there were problems and asked for statutory changes. The legislative minutes say the following:

"Jim Sanderson, deputy prosecutor in Lincoln County, explained a case he began prosecuting that raised questions regarding the current residency statutes. A person from Georgia had a house in Wyoming, moved to Georgia to work and claimed to remain a Wyoming resident. He returned each summer to Wyoming and left to work outside of the state at other times. Mr. Sanderson believed the statute is unclear as to whether the move to another state is a loss of residency. He suggested the statute should be clarified in whichever manner the legislature decides. He noted that perhaps a specified length of time outside of the state or a percentage of time spent in the state should be a hard and fast determining factor". Mr. Davis, the man from Georgia, addressed this same committee.

The comments offered to the legislature clearly lend support that the statute is vague and unevenly applied. This is further supported by the testimony of one of the State's witnesses at the motion hearing. Nancy Liebert, who works at the front desk in the Cody Game and Fish office, said that people come in "all the time" asking for clarification of the residency/domicile terms. She said she has her own little speech that she gives, but that speech has changed a bit over the years. It was clear from her testimony that she had her own definition of "domicile" which was quite different than the statutory definition. She went on to testify that if she cannot answer the questions then she has warden Sax, or one of the other wardens, explain the statutes. In effect she admitted that she and other

wardens are giving citizens legal advice as to the meaning of the statutes and that this is a regular practice.

When judges, prosecutors, and citizens are having difficulty interpreting and enforcing the statutes there is a vagueness problem. And where the Wyoming Game and Fish admits that it has made "numerous requests" to the Attorney General's Office for interpretation of the residency laws, there is a problem with vagueness. And though the prosecution notes that I did not seek a legal opinion from a Wyoming lawyer regarding the purchase of resident licenses, it begs the question of the vagueness of the statute if one has to get a legal opinion before buying a fishing license. Further, I should be able to rely on the same legal advice given to other citizens by the Game and Fish, and not treated differently because I am a lawyer. It is also clear that there are in fact many others who have so qualified, further begging the question, from which game warden should one seek advice. This is also consistent with warden Sax's comments on August 2, 2001 that other wardens interpret these statutes differently and are giving people differing interpretations of the same statutes. Apparently there are even some judges and prosecutors, who are the ultimate enforcers of these laws, who have questions and concerns about the current statutes. And there are prosecutors who are not prosecuting persons similarly situated to me because they recognize that the current statutes allow for the purchase of resident licenses. Though it may not be what the Wyoming Game and Fish wanted or intended when they had the legislation drafted, that was the result. To enforce the current law otherwise is problematic. The correct and just solution is to amend or to change the law.

When others similarly situated, or with even fewer ties to Wyoming than myself, have qualified for resident licenses it raises the question of equal protection. The Wyoming Game and Fish acknowledged that new residents, past residents, and part time residents are qualifying under the current statutory scheme for resident licenses. This was also the case prior to 1998 and part of the impetus for the 1998 legislative changes. These people have not been prosecuted. To argue otherwise would mean that they did not qualify.

The defense presented evidence at the motion hearing of at least one person (George Kiesler) similarly situated to me who was able to purchase resident licenses after seeking the advice of a Wyoming Game and Fish official. Jim Sanderson, Lincoln County deputy attorney, acknowledged the case of the Georgia man buying resident licenses. The Wyoming Game and Fish provided the defense with information which verified that Vice-President Dick Cheney was able to purchase resident licenses in Wyoming. Prior to 2000, Mr. Cheney was domiciled in Texas. He was registered to vote in Texas. He voted in at least eight (8) election cycles in Texas. He had vehicles registered in Texas. He was working for Halliburton and collecting a check in Texas. He had his 1.6 million dollar house in Texas homesteaded. While there are certain tax benefits to homestead one's house, \$347,654.00 in Cheney's case, one has to be domiciled in that state to do so. He filed his federal income tax returns in Texas. In the summer of 2000, Mr. Cheney was asked to be George W. Bush's vice-presidential running mate. The Twelfth Amendment prohibits the President and the Vice-president from being residents of the same state. In July 2000, Mr. Cheney flew to Jackson Hole, Wyoming and registered to vote. Despite collecting a \$20, 000, 000.00 bonus from Halliburton in 2000, and his other significant ties to Texas, Mr. Cheney was able to register to vote and claim not only residency but to be a domiciled in Wyoming. This was despite the fact that in 1998 he purchased a **non-resident** fishing license. And though he was sued in at least two federal district courts for violation of the Twelfth Amendment to the U.S. Constitution for changing his domicile at the twenty third hour, his qualification to purchase, and his purchase of resident Wyoming permits goes unchallenged.

Another person to date has not been prosecuted, which raises other issues in this case. During the pendency of this case, Park County Attorney Kelly Rankin's uncle was facing criminal charges for false swearing in the purchase of resident licenses. The notable difference was that the uncle did little or nothing to maintain Wyoming residency. Despite a possible conflict, either apparent or actual, Kelly Rankin was involved in screening and charging decisions of my case. It appears at least likely that warden Sax was aware of Kelly Rankin's uncle's problems. March 25, 2002 Kelly Rankin, deputy attorney Thayne Peterson, defense attorney Ed Brass and I met in Cody to discuss the

case. Warden Sax was present for the scheduling of meeting but took a last minute vacation so was not present at the meeting itself. All attorneys agreed that the statute was problematic. This was particularly true of deputy attorney Peterson. No decision was made other than to look at the case closer, in light of several other facts presented that were not part of Sax's report. On March 28, 2002 warden Sax went to the County Attorney's office to screen charges. He screened charges with deputy attorney Peterson. Peterson expressed his concerns to Sax about filing charges, in light of the problems with the statutes and what I had done to legally comply. He declined to file charges. Warden Sax was heard to say that Peterson should file the charges because I would just plead to avoid the embarrassment.

The next meeting with County Attorney Rankin was in May. Thayne Peterson was not present. Warden Sax was present. At that meeting there were more negotiations regarding paying fees and no charges, declaratory judgments, legislative changes vs. judicial legislation, etc. June 19, 2002 Kelly Rankin penned a letter to the defense expressing his intent to charge, the terms of which were still subject to negotiation. Interesting to note is the June 19, 2002 date of Rankin's note expressing his intent to file some sort of charge(s). Interesting to note because Sax was e-mailing Sgt. White in Utah in July and August 2, 2002, still trying to determine if it was true that Utah considered me domiciled in Wyoming and **not** domiciled in Utah.

January 2003, Kelly Rankin sent my case to Hot Springs County prosecutor, Dan Caldwell, on a conflict. I applied for the position of Park County Attorney when Kelly Rankin accepted a job with the U. S. Attorney's office. One would think that the conflict would end there. However, in his testimony on July 26, 2004, warden Sax admitted that he met with the new Park County attorney, Brian Skoric, after the case was conflicted. In fact, Brian Skoric did not take office until after the case was conflicted. There can be no viable excuse why warden Sax is meeting with the Park County attorney on my case that was conflicted before he took office.

To date, Mr. Rankin's uncle has not been charged. This begs the question of whether the conflict was only apparent, or if it was in fact an actual conflict. In light of numerous others who have qualified for resident licenses, and whose circumstances are very similar to mine, so numerous that there have been legislative changes in 2003, the issue again becomes one not only of equal protection, but of possible malicious prosecution. My charges came after all of the legislative debate, after the legislative changes, after the Wyoming Game and Fish was clearly aware that similarly situated persons qualified to purchase resident licenses, after a declination to file by a deputy prosecutor, and after a statement to just file and that I would plead to avoid the embarrassment. To date, those similarly situated persons have not been prosecuted. It is unlikely that they ever could be prosecuted because the Wyoming Game and Fish acknowledges that the current statutes arguably allowed these people to qualify. And once charges were filed, someone "anonymously" sent a copy of the charging documents to the Salt Lake Tribune. Court personnel said that nobody has copied their file. This act itself appears on its face to be malicious, an attempt to embarrass, and an attempt to ruin reputation.

Some issue was made by the state's prosecutor that I should have and could have sought other employment in Wyoming, but that I was not willing to make the "sacrifice" to do so. Nowhere does the statute require "sacrifice" or dictate the job or type of job one must take. The current statutory scheme allows one to leave the state for a "special or temporary purpose". Employment arguably qualifies at least as a special, if not also a temporary, purpose.

Under 23-1-107(a), to qualify for a resident game and fish license, a person shall be domiciled and shall physically reside in Wyoming for one full year immediately preceding the date the person applies for the license.

Under 23-1-107(c), a person who spends time or resides in any state other than Wyoming on a temporary basis for purposes including, but not limited to, pleasure or retirement, may establish residency in Wyoming if all the following factors are met:

- (i) The person had **originally** established residency by being domiciled for one full year in Wyoming prior to leaving the state for a temporary purpose;
- (ii) The person's domicile **or** established, fixed and permanent home consists of real property situated in Wyoming....Mere ownership of real property is not sufficient evidence to establish domiciliary intent.
- (iii) The person is absent from Wyoming for a **special or** temporary purpose and has the intention of returning to the state; and
- (iv) The person makes no claim for residency elsewhere for any purpose during the time the person is absent from Wyoming.

Under 23-1-102(ix) resident is defined as "a United States citizen who **has been** a resident of Wyoming and domiciled in Wyoming for not less than one (1) year and who has not claimed residency elsewhere for any purpose during that one (1) year period immediately preceding the date of application for a license.

Domicile is defined under 23-1-102(xiv). Domicile means that place where a person has his true, fixed and permanent home to which whenever that person is absent the person has the intention of returning. A person may have more than one (1) residence, as set forth in W.S. 23-1-107, but only one (1) domicile.

I originally established residency in Wyoming by being domiciled in Wyoming for thirty-one years, prior to leaving the state for the temporary or special purpose of employment. Even the state conceded that I qualified for those thirty-one years.

My domicile consists of real property. It is the same domicile and real property I used as my domicile for thirty one years, as well as property that I hold in trust, and a residence that I pay rent. I maintain personal property at those locations. My domicile consists of well more than the mere ownership of real property.

I am absent from the state for the special or temporary purpose of employment and I have the intention of returning to the state of Wyoming.

I have made no claim for residency elsewhere for any purpose during the time I have been absent from the state.

I relied upon these statutes, and their amended forms, and the interpretations and representations made by several Wyoming Game and Fish officials that I legally qualified to purchase resident licenses. From 1990 until 2001 I purchased resident licenses in Wyoming. I applied for licenses thru the mail. And I signed the licenses.

On July 26, 2004, the trial court ordered the prosecution to comply with the defense's request for Bill of Particulars. The court ordered the prosecution to state with some degree of specificity or particularity what facts or information they were alleging was false that I swore to. To date the prosecution has failed to comply. My signature, in and of itself, does not state with any degree of specificity or particularity what was false that I swore to. What actually is the false information? There were also statutory changes in 1998. So is the pre-1998 false swearing different. Without the above information it makes it difficult to defend against the unknown. It appears from everything presented so far that all of the information that I provided on my licenses, and to the Wyoming Game and Fish, is correct, true and accurate. There is only a difference of opinion as to whether that information provided qualifies me as a resident, like it clearly has so many others who are similarly situated to me.