

Hunting rights case at Supreme Court

It has been four years since Clayvin Herrera, a game warden for the Crow Tribe of Montana, along with several other tribal members, crossed a fence line into Wyoming, leaving the Crow Reservation, in pursuit of elk.

Although none of the hunters had a license to hunt in Wyoming, and the state's elk hunting season was closed, three bull elk were shot, and the meat hauled back across the border onto the Crow Reservation.

Subsequently, pictures posted on Facebook, and DNA tests conducted against the Wyoming elk herd, after investigators confiscated one of the elk heads from Herrera, compelled Wyoming to charge Herrera with two hunting misdemeanors under their state law. Found guilty

in 2016 by the Sheridan circuit court, Herrera was ordered to pay \$8,080, received a suspended jail sentence and had his hunting privileges suspended for three years.

Herrera's pro bono defense team was never allowed to argue 1868 treaty stipulations permitting him to hunt off reservation, and across state lines, meaning he cannot, as a tribal member, have any hunting "privileges," but has treaty-established hunting rights. These treaty-established rights are compensation for lands and resources taken from the Crow people, not privileges awarded to a Wyoming state resident.

The case was appealed

through state courts, and lost on appeal, based on the rulings of an earlier 1995 case, *Crow Tribe of Indians v Repsis*, which held that the creation of Wyoming and the Bighorn National Forest, abrogated treaty stipulated hunting rights "on the unoccupied lands of the United States," because these creations constituted occupation.

Last January, the Supreme Court issued a call for views of the solicitor general, object being to find out what the federal government thinks of the case. In response the Department of Justice brief supports the tribal hunting rights, asserting Wyoming was in the wrong.

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