

SUPREME COURT OF SOUTH DAKOTA

State of South Dakota v. Anselem H. Rumpca

652 N.W.2d 795 (S.D. 2002) · No. No. 22154 · Decided October 9, 2002

SUMMARY

The Supreme Court of South Dakota affirmed Anselem Rumpca’s conviction for trespass-hunting without permission under SDCL 41-9-1. The court held that shooting at a pheasant flying over private property constitutes hunting on private land, even when the shooter is located on a public roadway. It also upheld the revocation of Rumpca’s hunting privileges under SDCL 41-9-8 because the bird was not taken lawfully.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Per Curiam; Gilbertson, Chief Justice; Sabers, Justice; Amundson, Justice; Konenkamp, Justice; Zinter, Justice
JURISDICTION	South Dakota
DECIDED	October 9, 2002
DOCKET	No. 22154
DISPOSITION	affirmed
PROCEDURAL POSTURE	Rumpca appealed a court-trial judgment finding him guilty of trespass-hunting without permission in violation of SDCL 41-9-1.
STANDARD OF REVIEW	The appellate court does not reweigh conflicting evidence or reassess witness credibility. In a judge-tried criminal case, a finding of guilt necessarily includes a finding that the State proved every material element beyond a reasonable doubt, and the clearly erroneous rule does not apply to the trial court’s finding of guilt.
PRECEDENTIAL VALUE	published opinion
PARTIES	Anselem H. Rumpca v. State of South Dakota

TOPICS

- statutory interpretation
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court erred in finding beyond a reasonable doubt that Rumpca shot at a pheasant while it was flying over Weber's private land.
2. Whether shooting at a bird flying over private land from a public roadway constitutes hunting upon private land without permission under SDCL 41-9-1.
3. Whether revocation of Rumpca's hunting privileges was proper under SDCL 41-9-8.

HOLDINGS

1. The trial court did not err in finding Rumpca guilty. The appellate court will not reassess witness credibility or reweigh conflicting evidence, and the clearly erroneous rule does not apply to a trial judge's finding of guilt in a criminal case.
2. Shooting or shooting at a pheasant flying over private property constitutes hunting upon private land and violates SDCL 41-9-1 unless the hunter owns or possesses the land or has the owner's or lessee's permission.
3. Revocation of Rumpca's hunting license for one year was proper because the pheasant was not taken lawfully.

KEY QUOTATIONS

“Thus shooting or shooting at a pheasant flying over private property constitutes hunting and is prohibited under SDCL 41-9-1 unless the hunter owns or possesses the land or has the permission of the owner or lessee.” (652 N.W.2d at 798)

“A finding of guilt by a judge, sitting without a jury, necessarily includes a finding that the state has proved each material element of a crime beyond a reasonable doubt.” (652 N.W.2d at 797)

FACTUAL BACKGROUND

John Weber observed Rumpca and his son hunting from a pickup near Weber's land and believed Rumpca shot at pheasants flying over Weber's private property. Rumpca testified that he shot at a pheasant in the roadside ditch and later retrieved the bird from the pasture. Rumpca had not received permission to hunt on Weber's land.

PROCEDURAL HISTORY

After a two-day court trial, the trial court found Rumpca guilty of trespass-hunting without permission. The trial court entered its own findings of fact, conclusions of law, and judgment after rejecting the parties' proposed submissions. Rumpca challenged the factual finding that he shot at a pheasant over private land and argued that shooting from a public roadway over private land did not constitute trespass. The South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Rinehart, 2000 SD 135, 617 N.W.2d 842
- State v. Frazier, 2001 SD 19, 622 N.W.2d 246
- State v. Means, 268 N.W.2d 802 (S.D. 1978)
- State v. Bartunek, 323 N.W.2d 121 (S.D. 1982)
- Simpson v. Tobin, 367 N.W.2d 757 (S.D. 1985)

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