Note: Decisions of a three-justice panel are not to be considered as precedent before any tribunal.

ENTRY ORDER

SUPREME COURT DOCKET NO. 2002-309

MARCH TERM, 2003

State of Vermont v. Michael Fiske	}	APPEALED FROM: District Court of Vermont, Unit No. 3, Franklin Circuit DOCKET NO. 35-1-02 Frcr Trial Judge: James R. Crucitti

In the above-entitled cause, the Clerk will enter:

Defendant appeals his conviction of having taken a deer by aid of a salt lick, in violation of 10 V.S.A. § 4747. We affirm.

The State' s only witness, the game warden who investigated the alleged offense, testified at trial that after receiving a tip from a confidential informant, he discovered a pile of granular salt of the type used in water softeners, fifteen yards from a homemade tree stand. The officer followed deer tracks and a trail of blood to a pickup truck registered to defendant. When defendant returned to the truck, he admitted to the officer that the stand belonged to him and that he had taken a deer from the stand three days earlier. At trial, defendant argued that the warden was incompetent to testify that the white crystalline substance he found was salt. He also argued that the State had failed to meet its burden of showing that the pile of salt was a salt lick within the meaning of the term as used in § 4747. The trial court admitted the warden' s testimony under V.R.E. 701, and further determined that defendant' s use of the pile of granular salt to take the deer was conduct criminalized by § 4747. The court stated that the term " salt lick" refers to a place where animals come to consume salt and does not depend on the form or physical shape in which the salt exists.

On appeal, defendant argues that (1) because salt is a complex crystalline solid identifiable only through chemical analysis by an expert, the game warden should not have been allowed to testify under V.R.E. 701 that the substance he found was salt; and (2) the trial court misconstrued the term " salt lick" in concluding that the State had met its burden of demonstrating that defendant violated § 4747. We find no merit to either argument. Under V.R.E. 701, a witness not testifying as an expert may testify as to opinions or inferences " (a) rationally based on the perception of the witness and (b) helpful to a clear understanding of his testimony or the determination of a fact in issue." Here, the game warden testified that he discovered what looked to be a pile of salt crystals of the type used in water softeners. He indicated that the crystals were salty to the taste and appeared to be salt based on his everyday experience in which he encountered salt quite often. The court did not err in admitting the testimony under V.R.E. 701.

As for defendant' s second argument, even the definitions of the term " salt lick" that he provides in the appendix to his brief demonstrate that the term is not used exclusively to refer either to a natural substance or to a block form of salt. We decline defendant' s invitation to construe the term " salt lick" so as to allow individuals to avoid prosecution by attracting big game with salt bought in, or broken into, granular rather than rock form. See State v. Yorkey, 163 Vt. 355, 358 (1995) (because " there is a presumption that the Legislature does not intend to enact meaningless legislation," this Court must construe a statute " in a manner that will not render it ineffective or meaningless"); In re A.C., 144 Vt. 37, 42 (1984) (statutes must not be construed so as to render them ineffective or lead to irrational consequences). Plainly, § 4747 was intended to encompass the conduct for which defendant was prosecuted.

Affirmed.

BY THE COURT:

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Jeffrey L. Amestoy, Chief Justice

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Denise R. Johnson, Associate Justice

_____

Frederic W. Allen, Chief Justice (Ret.)

Specially Assigned