

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

**ENTRY ORDER**

SUPREME COURT DOCKET NO. 2005-301

NOVEMBER TERM, 2006

State of Vermont

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APPEALED FROM:

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v.

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District Court of Vermont,

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Unit No. 3, Grand Isle Circuit

Anthony Henry

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DOCKET NO. 251153

Trial Judge: Thomas J. Devine

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

Defendant Anthony Henry appeals his conviction of erecting a permanent tree stand in a Wildlife Management Area in violation of 10 V.S.A. App. ' 15. He claims that the court=s findings are not supported by the evidence. We affirm.

Defendant was cited for having illegally affixed a tree stand in a state Wildlife Management Area. At trial, the investigating warden testified as follows. On November 24, 2004, the warden was on patrol and found a

tree stand screwed into a tree within the Wildlife Area. The next day, the warden returned and cut down the tree to remove the stand. He found the initials AA.H.@ and the name AA. Henry@ on the stand. As he was walking away, he met defendant nearby. According to the warden, defendant initially denied the stand was his, and then, when shown the initials, admitted that the stand belonged to him, but said he Acouldn=t remember which tree he had put it in.@

Defendant testified that he stored the tree stand with his father. Defendant=s father testified as well, explaining that it was he, and not his son, who placed the stand in the tree. The district court expressed concern about the credibility of all of the father=s testimony, while expressly finding the warden credible, including the description of defendant=s admission that he installed the stand, but could not recall on which tree.

On appeal, defendant argues that the court abused its discretion in finding defendant guilty, despite his father=s testimony to the contrary. We will uphold a trial court=s findings unless clearly erroneous. Kanaan v. Kanaan, 163 Vt. 402, 405 (1995). We give the trial court wide deference because Ait is in a unique position to assess the credibility of the witnesses and the weight of the evidence presented.@ Id. In this case, the district court had credible evidence to support its decision. The trial court accepted the warden=s testimony, but not all of the father=s testimony. Because there was sufficient evidence to support the court=s findings, we will not disturb the result.

Affirmed.

BY THE COURT:

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Denise R. Johnson, Associate Justice

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Marilyn S. Skoglund, Associate Justice

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Brian L. Burgess, Associate Justice