


1           **IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO**

2 Opinion Number: \_\_\_\_\_

Court of Appeals of New Mexico  
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Mark Reynolds

5 **No. A-1-CA-36131**

6 **STATE OF NEW MEXICO**  
7 **DEPARTMENT OF GAME AND**  
8 **FISH,**

9           Appellee-Petitioner,

10 v.

11 **TIMOTHY L. RAWLINGS,**

12           Appellant-Respondent.

13 **APPEAL FROM THE DISTRICT COURT OF SANTA FE COUNTY**

14 **Raymond Z. Ortiz, District Judge**

15 Hector H. Balderas, Attorney General  
16 Regina Ryanczak, Assistant Attorney General  
17 Santa Fe, NM

18 for Appellee

19 The Simons Firm, LLP  
20 Quinn Scott Simons  
21 Santa Fe, NM

22 for Appellant

1 **OPINION**

2 **VARGAS, Judge.**

3 {1} The New Mexico Department of Game and Fish (Game and Fish) appeals  
4 from the district court's order reversing Game and Fish's decision to deny  
5 Respondent's application for a New Mexico outfitter's license. Game and Fish raises  
6 four issues on appeal. First, Game and Fish argues that its hearing officer's decision  
7 to deny Respondent's application for an outfitter's license was supported by  
8 substantial evidence in accordance with NMSA 1978, Section 17-2A-3(C)(2) (2001)  
9 and 19.30.8.9(A)(6) NMAC. Second, Game and Fish claims that the district court  
10 acted arbitrarily and capriciously when it reversed Game and Fish's decision. Third,  
11 it contends that the district court erred when it applied Section 17-2A-3(C)(3), rather  
12 than Section 17-2A-3(C)(2) to the evaluation of Respondent's outfitter application.  
13 Finally, Game and Fish claims that the district court erred when it concluded that  
14 Game and Fish violated the Interstate Wildlife Violator Compact (the Compact),  
15 NMSA 1978, Section 11-16-1 to -12 (2001). Because we conclude that the actions  
16 of the Arizona Commission on which Game and Fish relied to deny Respondent a  
17 license are akin to a suspension under our relevant statute and regulations and the  
18 Legislature intended for Game and Fish to treat the Respondent's Arizona license  
19 "revocation" as if it had occurred in Arizona, pursuant to the Compact, we affirm.

1 **BACKGROUND**

2 {2} After working as a licensed hunting guide in New Mexico for three years,  
3 Respondent submitted an application for a New Mexico outfitter's license to Game  
4 and Fish. Game and Fish denied his application pursuant to Section 17-2A-3(C)(2),  
5 which precludes an individual from working as a registered outfitter "if the person  
6 has had a guide or outfitter license, registration, permit or certificate revoked in  
7 another state." In support of its denial, Game and Fish pointed to a February 21,  
8 2003, action by the Arizona Game and Fish Commission, which unanimously  
9 concluded:

10 That the license and/or license privileges of [Respondent] to hunt, fish,  
11 trap and guide in the State of Arizona be revoked and he be denied  
12 another for a period of five years; that the current licenses be suspended  
13 as of the date of this hearing and that they be revoked as of the date the  
14 order in this case is signed by the director; [and] that he be required to  
15 complete the hunter education course and provide proof to the  
16 Department's law enforcement branch before applying for any other  
17 licenses to hunt in the State [of Arizona.]

18 Respondent requested an administrative review of Game and Fish's decision,  
19 pursuant to Section 17-2A-3(S) and the Uniform Licensing Act (ULA), NMSA  
20 1978, Section 61-1-1 to -34 (1957, as amended through 2016). Following an  
21 administrative hearing, the Game and Fish hearing officer entered an order  
22 upholding Game and Fish's denial. Respondent appealed to the district court,  
23 pursuant to NMSA 1978, Section 39-3-1.1 (1999) and Rule 1-074 NMRA.

1 {3} The district court reversed the decision of Game and Fish, finding that Game  
2 and Fish acted arbitrarily and capriciously, applied an inapplicable subsection of  
3 Section 17-2A-3, and violated the Compact. Game and Fish petitioned this Court for  
4 a writ of certiorari, which we granted.

## 5 **DISCUSSION**

6 {4} Initially, we note that while Game and Fish raised issues of substantial  
7 evidence and abuse of discretion by the district court, the only argument developed  
8 in its brief involves the district court's interpretation of the relevant statutes and  
9 regulations. As such, this case requires us to interpret provisions of our statutes  
10 governing our statewide system for hunting activities set out in NMSA 1978, Section  
11 17-2A-1 to -3 (1996, as amended through 2001) and the regulations promulgated  
12 pursuant to those statutes, in conjunction with the Compact adopted by our  
13 Legislature. Specifically, we must decide whether the action taken by the Arizona  
14 Commission constitutes a revocation of Respondent's guide or outfitter license such  
15 that he is precluded from "work[ing] as a registered hunting guide or outfitter in New  
16 Mexico," pursuant to Section 17-2A-3(C)(2). As all of the arguments on appeal  
17 raised by Game and Fish are related, we address them together.

### 18 **Standard of Review**

19 {5} This Court "conduct[s] the same review of an administrative order as the  
20 district court sitting in its appellate capacity[.]" *Rio Grande Chapter of Sierra Club*

1 v. *N.M. Mining Comm'n*, 2003-NMSC-005, ¶ 16, 133 N.M. 97, 61 P.3d 806. We  
2 will not disturb a decision of Game and Fish unless it acted in a manner that is: “[1]  
3 arbitrary, capricious, or an abuse of discretion; [(2)] not supported by substantial  
4 evidence in the record; or [(3)] otherwise not in accordance with law.” *Id.* ¶ 17; *see*  
5 Rule 1-074. “A ruling by an administrative agency is arbitrary and capricious if it is  
6 unreasonable or without a rational basis, when viewed in light of the whole record.”  
7 *Rio Grande Chapter of Sierra Club*, 2003-NMSC-005, ¶ 17. “A ruling that is not in  
8 accordance with law should be reversed if the agency unreasonably or unlawfully  
9 misinterprets or misapplies the law.” *N.M. Mining Ass’n v. N.M. Water Quality*  
10 *Control Comm’n*, 2007-NMCA-010, ¶ 11, 141 N.M. 41, 150 P.3d 991 (internal  
11 quotation marks and citation omitted). In considering whether Game and Fish’s  
12 actions were in accordance with the law, we note that interpretation of a statute is a  
13 matter of law that this Court reviews *de novo*, and we are not bound by Game and  
14 Fish’s interpretation of the relevant statutes. *See id.* (citing *Rio Grande Chapter of*  
15 *the Sierra Club*, 2003-NMSC-005, ¶ 17).

## 16 **Statutory Interpretation**

17 {6} When interpreting a statute, a court’s primary goal is to “facilitate and  
18 promote the [L]egislature’s purpose.” *United Rentals Nw., Inc. v. Yearout Mech.,*  
19 *Inc.*, 2010-NMSC-030, ¶ 17, 148 N.M. 426, 237 P.3d 728 (omission, internal  
20 quotation marks, and citation omitted). In discerning that purpose, “we look first to

1 the plain language of the statute, giving the words their ordinary meaning, unless the  
2 Legislature indicates a different one was intended.” *Flores v. Herrera*, 2016-NMSC-  
3 033, ¶ 8, 384 P.3d 1070 (internal quotation marks and citation omitted). While the  
4 plain meaning rule provides that “statutes are to be given effect as written and, where  
5 they are free from ambiguity, there is no room for construction[,]” this rule must be  
6 applied with caution, as “a statute, apparently clear and unambiguous on its face,  
7 may for one reason or another give rise to legitimate (i.e., nonfrivolous) differences  
8 of opinion concerning the statute’s meaning.” *State ex rel. Helman v. Gallegos*,  
9 1994-NMSC-023, ¶¶ 2, 23, 117 N.M. 346, 871 P.2d 1352 (internal quotation marks  
10 and citation omitted). Consequently, courts will reject the literal language of the  
11 statute if doing so is necessary to “conform to the obvious intent of the [L]egislature,  
12 or to prevent its being absurd.” *Id.* ¶ 3 (internal quotation marks and citation  
13 omitted); see *Baker v. Hedstrom*, 2013-NMSC-043, ¶ 15, 309 P.3d 1047 (indicating  
14 that the statute must be interpreted in the context of the statute as a whole with an  
15 eye toward its purposes and consequences). We consider all parts of the statute  
16 together, “read[ing] the statute in its entirety and constru[ing] each part in connection  
17 with every other part to produce a harmonious whole.” *Key v. Chrysler Motors*  
18 *Corp.*, 1996-NMSC-038, ¶ 14, 121 N.M. 764, 918 P.2d 350. Furthermore, a statute  
19 “whose construction is in question, [is] to be read in connection with other statutes  
20 concerning the same subject matter.” *State ex rel. Children, Youth & Families Dep’t*

1 v. *Djamila B.*, 2014-NMCA-045, ¶ 10, 322 P.3d 444 (alteration, internal quotation  
2 marks, and citation omitted), *aff'd on other grounds sub nom, In re Mahdjid B.*,  
3 2015-NMSC-003, 342 P.3d 698. Finally, we interpret statutes “to avoid rendering  
4 the Legislature’s language superfluous.” *Baker*, 2013-NMSC-043, ¶ 24.

5 **The District Court Properly Applied Section 17-2A-3(C)(3) to Respondent’s**  
6 **Application**

7 {7} It is unlawful in New Mexico for a person to work as an unlicensed hunting  
8 guide or outfitter. Section 17-2A-3(A). A person who has previously “had a guide  
9 or outfitter license, registration, permit or certificate revoked in another state,” or  
10 suspended in another state without reinstatement, will not “be allowed to work as a  
11 registered hunting guide or outfitter in New Mexico.” Section 17-2A-3(C)(2), (3).  
12 The decision entered by the Arizona Commission “revokes” Respondent’s license,  
13 precludes him from obtaining another for five years, and requires him to complete a  
14 course before he can apply for another license to hunt in Arizona. Respondent was  
15 subsequently issued a new license by the Arizona Commission. To determine  
16 whether Respondent is precluded from working as a registered hunting guide or  
17 outfitter in New Mexico, we are required to consider whether the Arizona  
18 Commission’s decision constitutes a “revocation” as the term is used in Section 17-  
19 2A-3(C)(2).

20 {8} We initially consider the meaning of the term “revoke” and its counterpart,  
21 “suspend” as they are used in Section 17-2A-3(C), (D). Neither Section 17-2A-3,

1 specifically, nor Chapter 17, generally, provide definitions for the terms  
2 “revocation” or “suspension.” Instead, the parties direct us to the definitions of  
3 “revoke” and “suspend” in the ULA, and in the regulations promulgated by Game  
4 and Fish as part of its hunting and fishing regulations. The Uniform Licensing Act  
5 provides:

6 D. “revoke a license” means *to prohibit* the conduct  
7 authorized by the license;

8 E. “suspend a license” means *to prohibit, for a stated period*  
9 *of time*, the conduct authorized by the license. “Suspend a license” also  
10 means *to allow*, for a stated period of time, the conduct authorized by  
11 the license, *subject to conditions* that are reasonably related to the  
12 grounds for suspension[.]

13 Section 61-1-2(D), (E) (emphases added). The hunting and fishing regulations  
14 promulgated by Game and Fish define “[r]evocation” and “[s]uspension” of  
15 privileges slightly differently:

16 H. “Revocation” means when a person’s hunting, fishing,  
17 trapping, guiding and outfitting privileges, or other privileges or  
18 authorities granted by an agreement, license or permit issued by the  
19 department, *are taken away* by the commission after notice and  
20 opportunity for a hearing.

21 I. “Suspension” means when a person’s hunting, fishing,  
22 trapping, guiding and outfitting privileges, or other privileges or  
23 authorities granted by an agreement, license or permit issued by the  
24 department, *are taken away* by the commission, after notice and  
25 opportunity for a hearing, *until the person comes back into compliance.*

26 19.31.2.7(H), (I) NMAC (emphases added).



1 {9} The language of the decision by the Arizona Commission regarding the  
2 Respondent's Arizona license does not fit easily into the definitions promulgated by  
3 the Legislature contained in the ULA or the definitions promulgated by Game and  
4 Fish contained in its regulations. While using the term "revoked," the decision of the  
5 Arizona Commission clearly contemplates the possibility of future hunting, fishing,  
6 trapping and guide privileges for the Respondent, ordering that "he be denied  
7 another [license] for a period of five years . . . [and] that he be required to complete  
8 the hunter education course . . . before applying for any other licenses[.]".

9 {10} Under the ULA and Game and Fish regulations, however, the term "revoke"  
10 denotes a finality that cannot be overcome under any circumstances. In the instance  
11 of revocation, the conduct permitted by a license is "prohibited" under the ULA, *see*  
12 § 61-1-2(D), and "taken away" by the regulations. *See* 19.31.2.7(H) NMAC.  
13 Nowhere in the statute or regulation defining "revoke" is the reinstatement of those  
14 privileges contemplated. Instead, it is the ULA and Game and Fish regulations  
15 defining "suspended" that contemplate the reinstatement of privileges after a stated  
16 time or upon compliance with certain conditions. *See* § 61-1-2(E); 19.31.2.7(I)  
17 NMAC. Notwithstanding its use of the term "revoked," the Arizona Commission's  
18 indication that Respondent may be permitted to recover those privileges after a stated  
19 period of time or upon compliance with certain conditions fits more appropriately  
20 into the definition of a "suspension" under the ULA and the regulations.

1 {11} Game and Fish contends that the Arizona Commission’s use of the term  
2 “revoked” is dispositive, arguing that had the Arizona Commission intended to  
3 “suspend” Respondent, it would have set conditions he must satisfy to lift the  
4 suspension. Game and Fish, however, ignores two critical points. First, at least one  
5 of the definitions of “suspension” on which it encourages us to rely provides that  
6 suspension “means to prohibit, for a stated period of time,” which is precisely what  
7 happened in this case. The Arizona Commission prohibited Respondent from  
8 obtaining a license which would permit him to hunt, fish, trap and guide for five  
9 years and subsequently restored his privileges by granting him a new license. *See*  
10 § 61-1-2(E). Second, Game and Fish ignores that the Arizona Commission placed  
11 conditions on his ability to engage in these activities in the future, requiring that he  
12 complete a hunter education course and provide proof before a new license would  
13 be issued to him.

14 {12} Game and Fish further argues that Respondent’s claim “that his revocation  
15 was really a suspension . . . . results in a skewed meaning of the statute in its entirety  
16 and does not give effect to the objective and purpose of the statute.” We disagree. In  
17 addition to implementing statutes governing our statewide system for hunting  
18 activities, *see* Section 17-2A-1 to -3, our Legislature adopted legislation to address  
19 the manner in which New Mexico will recognize and address wildlife violations that  
20 occur in other states, including suspensions and revocations of hunting, fishing,

1 trapping and guiding privileges. In 2001 New Mexico adopted the Compact. *See*  
2 §§ 11-16-1 to -12. The Compact is an agreement between participating states to,  
3 among other things, (1) promote compliance with the statutes, laws, ordinances, and  
4 administrative rules relating to the management of wildlife resources in participating  
5 states; (2) recognize suspensions of wildlife license privileges by and report  
6 convictions to participating states; (3) cooperate in the enforcement of compliance  
7 with the terms of citations issued by one participating state to residents of another  
8 participating state; and (4) assist court systems in the efficient disposition of wildlife  
9 violations. Section 11-16-2(B).

10 {13} The Compact requires that “[a] participating state shall recognize the  
11 suspension of license privileges of a person by another participating state as though  
12 the violation resulting in the suspension . . . had occurred in the home state; and . . .  
13 could have been the basis of the suspension of license privileges in the home state.”  
14 Section 11-16-6(A). The Compact does not differentiate between a suspension and  
15 a revocation and instead equates them, providing, “ ‘*suspension*’ means a  
16 *revocation*, denial or withdrawal of license privileges, including the privilege to  
17 apply for, purchase or exercise the benefits conferred by a license.” Section 11-16-  
18 3(M) (emphasis added). Rather than distinguish between a “suspension” and  
19 “revocation,” the Compact adopts a policy intended to “recognize the suspension of  
20 wildlife license privileges of a person whose license privileges have been suspended

1 by another participating state *and treat the suspension as if it had occurred in the*  
2 *home state[.]*” Section 11-16-2(B)(2) (emphasis added).

3 {14} In this case, notwithstanding that the decision of the Arizona Commission  
4 stated that it “revoked” Respondent’s privileges, it subsequently allowed him to  
5 obtain a new license after the proscribed time had passed and he complied with the  
6 requirements set out in the decision. The Compact requires us to “recognize the  
7 suspension . . . as though the violation . . . had occurred in the home state[.]” Section  
8 11-16-6(A), and the Arizona Commission’s decision clearly did not intend to impose  
9 the finality that is implied by the definitions of “revoke” set out in the ULA and  
10 Game and Fish regulations. *See* § 61-1-2(D); 19.31.2.7(H) NMAC. We conclude  
11 that the decision of the Arizona Commission did not constitute a “revocation” of  
12 Respondent’s Arizona permit so as to prevent him from obtaining a license to work  
13 as a registered guide or outfitter, pursuant to Section 17-2A-3(C). The district court  
14 properly applied Section 17-2A-3(C)(3) to its evaluation of Respondent’s  
15 application. While Game and Fish argues that the district court’s failure to conclude  
16 that Respondent’s Arizona license was revoked, as the term is used in Section 17-  
17 2A-3(C)(2), renders that section surplusage and leads to an absurd result, we  
18 disagree. Both the ULA and Game and Fish’s regulations differentiate between  
19 “revocation,” which has a permanent quality, and “suspension,” which is either time-  
20 limited or conditional upon compliance with requirements established by Game and

1 Fish. Read together with the Compact, we are persuaded that an applicant who has  
2 been permanently prohibited and his right to obtain a license permanently taken  
3 away is subject to the provisions of Section 17-2A-3(C)(2), while an applicant whose  
4 license has been taken away for a specified period of time or until the applicant  
5 comes into compliance with the requirements established by Game and Fish is  
6 subject to the provisions of Section 17-2A-3(C)(3). *See Djamila B.*, 2014-NMCA-  
7 045, ¶ 10 (stating that “statutes, whose construction is in question [should] be read  
8 in connection with other statutes concerning the same subject matter” (internal  
9 quotation marks and citation omitted)); *see also Baker*, 2013-NMSC-043, ¶ 24  
10 (stating statutes should be read “to avoid rendering the Legislature’s language  
11 superfluous”). Indeed, our interpretation comports with the implicit intent of the  
12 Legislature in enacting Section 17-2A-3(C)(2), (3) and in adopting the Compact,  
13 which clearly contemplates denying licenses to individuals who have been  
14 prohibited from holding them in other states. *See United Rentals Nw., Inc.*, 2010-  
15 NMSC-030, ¶ 17 (stating that the primary goal of statutory interpretation is “to  
16 facilitate and promote the [L]egislature’s purpose”(omission, internal quotation  
17 marks, and citation omitted)). Our interpretation imputes meaning to both  
18 subsections of Section 17-2A-3(C), complies with the objective of the Compact to  
19 “recognize the suspension of wildlife license privileges of a person whose privileges  
20 have been suspended by another participating state and treat the suspension as if it

1 had occurred in the home state,” and avoids reaching an absurd result. Section 11-  
2 16-2(B)(2); *see Helman*, 1994-NMSC-023, ¶ 3 (stating that courts should interpret  
3 statutes to conform to the obvious intent of the Legislature and avoid an  
4 interpretation that renders the statute absurd).

5 {15} As the hearing officer’s decision was not in accordance with the law when it  
6 denied Respondent’s application, relying on Section 17-2A-3(C)(3), we find no error  
7 on the part of the district court.

8 **CONCLUSION**

9 {16} The decision of the district court is affirmed.

10 {17} **IT IS SO ORDERED.**

11  
12   
JULIE J. VARGAS, Judge

13 **WE CONCUR:**

14   
15 HENRY M. BOHNHOFF, Judge  
16

17   
18 EMIL J. KIEHNE, Judge