

Wildlife Act finds itself on the right side of the law

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Stony Plain provincial court judge Jacqueline Schaffter ruled in favour of wildlife officers ability to enter private lands to conduct search and seizures without a warrant on Nov. 4.

Nearly six months after Craig Miller challenged the constitutionality of section 66 of the Wildlife Act, the Hon. Schaffter ruled that section 66 does not contravene section eight of the Canadian Charter of Rights and Freedoms (aka The Charter).

Craig Miller had four charges laid against him including baiting and hunting without a licence, based on events that took place on Nov. 30, 2013.

However, Miller pleaded not guilty to the charges and his lawyer, Tom Engel, argued that the wildlife officers, who searched and seized evidence from Miller's residence resulting in the charges, did so under an unconstitutional law.

Section 66 of the Wildlife Act allows wildlife officers to enter private lands, without a warrant, while engaged in their wildlife duties.

However, Engel argued in May that when officers enter private land for the purposes of a search, prior authorization is required.

His argument was based on section eight of The Charter, which states, "Everyone has the right to be secure against unreasonable search or seizure."

As well, Engel argued that the provisions in section 66 were "so vague that it's overly broad and difficult to apply and practice."

In her ruling, the Hon. Schaffter found that section 66 is not vague or overly broad, as subsection one allows wildlife officers to enter private land in the execution of their duties, and subsection two limits the power provided under subsection one.

Hon. Schaffter also said that "sections 69, 71 and 72 of the act specify what more conditions are required, such as exigent circumstances or reasonable and probable grounds, in order for a wildlife officer to enter structures or conduct a search and seizure."

With regards to section 66 contravening section eight of The Charter, Hon. Schaffter said that the Wildlife Act is a regulatory statute.

"In a regulatory setting, section eight does not prevent inspections from occurring without prior authorization," she said.

"The powers granted to the wildlife officers and guardians under section 66 are granted to ensure compliance with the act, and section eight of The Charter is not engaged where there is an inspection to ensure compliance with an act."

Miller's criminal trial has proceeded throughout the summer (regarding his poaching related charges) and will conclude on Feb. 29, 2016 in Stony Plain provincial court.