

# Venetie case dismissed

**The Associated Press**

**FAIRBANKS** — Ruling that the state failed to protect the needs of subsistence hunters as required by law, a District Court judge has dismissed charges against a Venetie man accused of possessing an illegally taken caribou last year.

But the chairman of the Alaska Board of Game, John Shively, said Tuesday that

Judge Stephen Cline misinterpreted the law. Shively said he hopes the state will appeal the decision.

Jimmy Roberts was charged May 11, 1982, after the Alaska State Troopers and Fish and Wildlife Protection officers found freshly killed caribou parts in a meat house near his residence. The caribou hunting  
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season had closed five weeks earlier.

Cline said the state subsistence law, which gives priority to subsistence users when fish and game stocks are low, required separate regulations detailing seasons and bag limits for subsistence hunters. Without such guidance, Roberts, as a subsistence hunter, couldn't be prosecuted, Cline ruled.

The state argued that by defining subsistence uses and adopting general hunting regulations that allowed those used to take place, it had complied with the law, Cline disagreed.

"Nowhere does it say how a subsistence user can determine what his quota of game is for any particular place," Cline said. "The state has failed to speak meaningfully to the person in the bush who is a subsistence user. Nowhere . . . does it tell a person how to go about exercising his right to subsistence game."

"As far as I'm concerned, that is a total misconstruction of both the law and the regulations," said Shively, a vice pres-

ident of NANA Regional the Kotzebue based regional Native corporation.

"The board's feeling has been that where you have a resource, and the resource is very healthy, and it's taken primarily by subsistence users — which is the case with the Porcupine herd (the herd hunted in the Venetie area) — then the regulations do speak to what a subsistence hunter can do," Shively said. "If the judge is not smart enough to figure that out, it's not my problem."

It is the second case this year Cline has dismissed on subsistence-related grounds. In February, he dropped charges against James Ketzler of Nenana, who was accused of taking a moose out of season in Game Management Unit 20B. Cline ruled the closure of hunting in the area failed to protect the needs of subsistence hunters like Ketzler.

The state is appealing the Ketzler ruling.