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Three men fined for disturbing badger set with dog 'bred to kill'

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● COURTS By Tom Tuite



Gavin O'Dowd, Dean Fitzpatrick and Gavin Fitzpatrick claimed they were fox hunting

THREE Dublin fox-hunters have been fined but spared jail sentences for disturbing a badger's set with a dog described as "bred to kill".

Gavin O'Dowd, 27, of Lambay Drive, Ballybrack, along with 28-year-old Dean and Gavin Fitzpatrick, 22, both of Coolevin, Ballybrack, appeared at Dublin District Court today where they pleaded guilty to two charges under the Wildlife Act.

The three men admitted that they "wilfully interfered with" a badger's breeding or resting place during the incident in the Cabinteely area in Co. Dublin on October 22nd last year.

They also admitted they were not entitled to be at the named location and that they had spades and shovels as well as an electronic device "emitting sounds for tracking dogs hunting underground capable of being used for hunting wild animals". However, they were cleared of hunting a badger.

The charges can result in a fine of up to €1,000 as well as a sentence of up to three months.

The three unemployed men claimed they been hunting foxes and one of their dogs ran down a hole into the active badger set when they were approached by conservation ranger Ciaran Buckley.

Mr Buckley said they had spades and a large hole had been dug. They also had several dogs including a Patterdale terrier which he said was "bred to kill" and, based on his experience, was favoured by people hunting badgers. However, he agreed it was possible they could be used in fox-hunting.

Father-of-one Dean Fitzpatrick had 25 previous convictions from 2007 and 2008 including criminal damage, theft and motoring offences. He was fined €250 and also received a two-month sentence which was suspended on condition he keeps the peace for 12 months.

Gavin Fitzpatrick had no prior criminal convictions received fines totalling €500 which has to be paid within four months or he will be jailed for a week in default.

Father-of-two Gavin O'Dowd had 36 prior criminal convictions, the latest of which was in 2010, for a criminal damage, entering a building with intent to commit an offence, interfering with a motor vehicle, assault and failing to comply with a garda's direction.

He was also fined €250 and received a two-month sentence suspended on condition he keeps the peace for the next year.

Judge O'Neill heard that all three men are looking for work and he noted they had pleaded guilty to two of charges.

He dismissed the remaining charge, which the three men had contested, for unlawfully hunting a badger which is a protected animal. On that charge, he said he had the benefit of hearing evidence from all three men who claimed they had been fox hunting when the conservation ranger came upon them.

They all had the same explanation that they had been chasing a fox and one of their dogs had led them to the hole. They did not know it was a badger's set and the conservation officer, along with a garda, left the scene happy they were going to go away, the court heard.

Their barrister had argued that the ranger did not remain at the location to verify the three men's account. Judge O'Neill said that this was the missing piece of the jig-saw and he could not be satisfied beyond reasonable doubt to convict on that charge.