

## Dinosaur fossil case ends in plea bargain

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The federal government's much-ballyhooed prosecution of what it once labeled a major international conspiracy to steal an irreplaceable allosaur skeleton from Utah lands has ended with a whimper in an Emery County courtroom.



On Tuesday, the government dismissed charges against Barry James, a Pennsylvania paleontologist and fossil dealer, in exchange for a guilty plea on one count of theft by receiving, a third degree felony. The pleading included a court filing wherein James maintains he did not know the allosaur was stolen, but given his professional background he should have known the individuals selling it to him had stolen it from federal lands.

"I still deny knowing it ever came from federal lands," James told the Deseret News.

As part of the plea agreement, James will get no jail time and one year of unsupervised probation. He will also pay \$50,000 in fines over the next five years.

The government agreed to drop pending charges in state criminal court and federal civil court, and it will give back James' Pennsylvania farm, which it had confiscated in civil court proceedings. The felony will be reduced to a misdemeanor after one year.

If the courts had found James guilty on all counts, he could have spent roughly 35 years in prison and faced more than \$2 million in fines.

"Doing it this way, we won," James said. "I have spent three hellish years trying to prove my innocence. Now we can get on with our lives."

Assistant U.S. Attorney Rich McKelvie said the guilty plea sends out the "firm message to the (commercial fossil collectors) that we will not tolerate the theft of rare and very precious resources. Too much (theft) has been going on for too long, and this prosecution telegraphs the seriousness of this problem . . . when we do catch someone we won't back off."

McKelvie said there was no value to the government in destroying James' life over something that happened 10 years ago. That's why prosecutors agreed to no jail time and \$50,000 restitution.

"The point of this was to get it out there that this (illegal collecting) will not be tolerated," he said. McKelvie said the prosecution is already having its desired effect of deterring illegal collecting, adding everyone in the business of buying and selling fossils knows about the James prosecution.

The prosecution of James has garnered national attention from scientists who deplored the wanton plundering of fossils and those who facilitate the international black market in fossils.

On the other side were outraged citizens who mounted a massive letter-writing campaign to Congress, alleging prosecutor misconduct. People from around the nation sent thousands of letters to congressmen, and even set up a legal defense fund.

Those allegations have prompted an ongoing investigation by the U.S. Department of Justice.

The case against James involved a theft in the early 1990s of an allosaur skeleton from public lands in Emery County. The government contended the fossils were removed by two Richfield men, who sold the specimen to

James, who through his business, Prehistoric Journeys, then sold it to a Japanese corporate museum for \$400,000.

Government attempts to recover the allosaur have been unsuccessful.

The Richfield men were never charged with the theft because the statute of limitations had expired. But that statute does not run when a defendant is out of state, meaning James, who lived in California and later Pennsylvania, could be charged even though the crime was 10 years old.

The federal government filed simultaneous civil charges seeking more than \$2 million in damages for unlawful removal of federal property.

"I still feel very strongly this is a case of government abuse," said defense attorney James Bradshaw. "The only reason you file criminal and civil charges is to deplete resources so (the defendant) cannot keep on fighting. What troubles me about this case is that is exactly what happened. Financially and emotionally, Barry could not continue."

James, 51, who says his renowned fossil preparation business was destroyed by the prosecution, said he finds it ironic that he was targeted by federal prosecutors who did nothing to those who actually stole the allosaur. "It is an injustice," he said.

James has always claimed the fossils were offered for sale by private collectors who assured James they had come from private lands. But given the absence of documentation, "James had reason to believe that the allosaur specimen had probably been illegally obtained by those persons who supplied the specimen," the court pleading states.

But he never stole the allosaur, he still maintains. "I have always been willing to do a lie detector test to prove that. I still am," he said.

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