

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION**

BRYNAN HADAWAY, GARRICK)
BECK, and ADAM BUXBAUM)

Plaintiffs)

v.)

CIVIL ACTION FILE NO.

THOMAS TOOKE in his official)
capacity as chief of THE FOREST)
SERVICE OF THE UNITED)
STATES OF AMERICA,)

Defendant.)

COMPLAINT

COME NOW, the Plaintiffs in the above-captioned case, respectfully shows as follows:

1. This action seeks declaratory and injunctive relief resulting from police road blocks which the Defendant has established and maintained in or near portions of the Chattahoochee National Forest in Lumpkin County and in other Georgia counties within the territorial jurisdiction of this Court during the times when the Rainbow Family was, is, and will be gathering in the Chattahoochee National Forest. The establishment and maintenance of these police road blocks directly results in the conduct by the Defendant and its agents of unconstitutional searches and seizures of vehicles, and of the drivers and occupants thereof,

travelling along the roads necessary to reach the gatherings of the Rainbow Family, and harasses those who attempt to so gather and impermissibly chills their willingness to do so in the future. In particular, the Plaintiffs have faced these road blocks before and, unless they are restrained, they will likely face them in the future as they travel to and from such gatherings.

2. This action arises under the First, and Fourth Amendments to the United States Constitution.

Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1331 under color of federal law, of rights secured to them by the United States Constitution.

4. Venue is proper in this District under Section 1391(b) and (e) of Title 28 of the United States Code because all of the events complained of took place and threaten to take place within the Northern District of Georgia.

Parties

5. Defendant Tooke in his official capacity as chief of Forest Service of the United States Department of Agriculture ("USFS") is charged by statute and by administrative regulations promulgated by the Secretary of Agriculture pursuant to Section 551 of Title 16 of the United States Code with the governance, regulation, and operation of the National Forest System, which includes all portions of the

Chattahoochee National Forrest. Pursuant to its statutory and regulatory authority, the USFS conducts, inter alia, both ordinary and extraordinary law enforcement operations within the National Forests, and it has in the past and, unless restrained, it will in the future establish and maintain the police road blocks which are described in paragraph 7 of this complaint. These police road blocks result directly from the agency's official policies and actions.

General Allegations

6. Beginning in mid-June and continuing into July, 2018, many persons began traveling to and from a location within the Chattahoochee National Forrest in Lumpkin County in order to attend and return from the 2018 Annual Gathering of the Rainbow Family. Most of these persons, including Garrett Beck and Adam Buxbaum are attending the gathering in order to meet and assemble with each other to exchange views and/or to worship with one another and to pray for world peace in the Cathedral of Nature. Park and many others entered, left, and reentered the Chattahoochee National Forrest at various times during the 2018 Annual Gathering in order to secure supplies and communicate with others during the gathering.

7. Beginning in mid- or late-June, 2018, Defendant established and maintained a police road block on State Road 77 and at the intersection of Forest Services Road 28-1 and State Road 77 within the Chattahoochee National Forrest

in Lumpkin County, Georgia. This road block was established approximately one miles from the area of the 2018 Annual Gathering site, which served as the entry and initial contact/information area for the gathering and through which virtually every person who attended the gathering passed. These roads provide the only means of vehicular access to and from the parking and supply facilities for the gathering, and Park and virtually every other person who attended the gathering uses those roads to reach and to depart from the gathering site. On the other hand, few, if any, persons not connected with the gathering used or were likely to use these roads at any time material. By virtue of its temporal and spatial proximity to the 2018 Annual Gathering, the police road block which the Defendant has maintained differ substantially from ordinary road blocks in that it is not designed or likely to serve any generalized law enforcement objectives but was instead targeted at those who attended the 2018 Annual Gathering while deliberately avoiding or strictly minimizing any imposition upon the residents of Lumpkin County.

8. Roadblocks have been set up on a Forrest Service Road 28-1 at the intersection of State Road 77 and 28-1. This is not a constant roadblock, but there is no pattern. The roadblock seems to be regularly operated throughout the day light hours at other places on State Road 77 the entire road is blocked. Plaintiffs

have been stopped (except for Hadaway) by both Forrest Service officers and State Troopers.

9. Garrick Beck was stopped at a roadblock on June 30, 2018 at 4:15. He was told to pull over to the side of the road. The officer asked for drivers license, insurance, and registration which he gave them. The officer then said to give him a minute while he checked these. The officer came back and asked if Mr. Beck had narcotics and other illegal contraband. Plaintiff said absolutely not. The officer called for the canine unit. The plaintiff and his occupant got out of the car because the dog had a positive hit. Nothing was found. Six officers then went through his car for an hour and took everything out of the car.

10. Adam Buxbaum was stopped twice on June 17 and June 20, 2018, at the intersection of 28-1 and 77. As he drove down the road he encountered a stop sign down the middle of the road. He was asked for drivers license, registration and proof of insurance because it was a mandatory compliance checkpoint. He was directed to pull his car over to the side of the road. They took a dog to search the vehicle when the dog allegedly alerted they told him to step out of his vehicle. They then proceeded to empty the car, putting the items on the road. They cut open a sealed box. The search lasted for 30 minutes. They broke open a cashbox.

The next time he was searched completely again because a passenger reached for her wallet. The search took 10 to 15 minutes.

He personally saw a Georgia resident stopped for 10 seconds and immediately let go.

11. Plaintiff Hadaway is not attending the instant gathering because she is unwilling to entertain intrusive and illegal searches to exercise her First Amendment rights.

12. Alaina Wenrich was stopped by officers because allegedly the middle seat of the truck had no seat belt. They then proceeded to search her so intrusively that she felt she had undergone a cavity search.

13. Barton Chastain was stopped a number of times. The second time he was handcuffed and his vehicle searched inside out. The bags of his passengers were searched inside out.

14. All of the searches described herein were unreasonable and not based on individualized suspicion.

Count I - Injunction Against Search and Seizure

15. The Plaintiffs reallege paragraphs 1 through 14 of this complaint as if fully restated in this Count 1.

16. Unless restrained by this Court, the Defendants will continue to conduct police road block operations during Rainbow Family gatherings in the Chattahoochee National Forrest in Lumpkin County and in other Georgia counties within this District, and they will thereby subject plaintiffs and many other

gathering attendees to a violation of her and their rights against unreasonable search and seizure secured to them by the Fourth Amendment to the United States Constitution. Against such repeated future constitutional violations, plaintiffs have no adequate remedy at law and they are entitled to declaratory and injunctive relief establishing the unconstitutionality of and restraining the Defendants' road blocks as described in paragraphs 7 through 13 of this complaint.

WHEREFORE the Plaintiffs respectfully request that this Court award to them and against the Defendant:

- A. A declaratory judgment establishing that the road blocks which the Defendant has erected and maintained and will erect and maintain violate the right of Plaintiffs and others to be secure in their persons and effects from unreasonable searches and seizures;
- B. Preliminary and permanent injunctive relief restraining each of the Defendant as well as its officers, agents, servants, employees, attorneys, and others acting in concert with them from continuing to conduct the police road blocks related to Rainbow Family gatherings which they have established within or in the vicinity of the Chattahoochee National Forest in Lumpkin County or in other Georgia counties within this District, and from conducting any search or seizure of anyone in a vehicle in that vicinity without individualized probable cause,

individualized exigent circumstances, or other proper and articulable individualized suspicion or cause;

C. Their reasonable attorney fees pursuant to Section 2412 of Title 28 of the United States; and

D. Such other and further relief as this Court may deem just and proper.

Count II - Injunction Against Harassment

17. Plaintiff realleges paragraphs 1 through 13 of this complaint as if fully restated in this Count 2.

18. Unless restrained by this Court, the Defendant will continue to conduct police road block operations during Rainbow Family gatherings in the Chattahoochee National Forrest in Lumpkin County and in other Georgia counties within this District, and it will thereby subject Plaintiffs and many other gathering attendees to harassment and intimidation because of their interest in the Rainbow Family and in the gatherings. In addition, the Defendant will continue to use their police road blocks to collect the names of persons who are interested in and supportive of the Rainbow Family and the gatherings. This harassment, intimidation, and collection of names will chill plaintiffs and others in the exercise of their right to the free exercise of their religions, freedom of expression, right to assemble peaceably, right to petition for a redress of their grievances, and right to

enjoy the National Forests lawfully and in peace. The Defendant's past actions in connection with its police road blocks, as described in paragraphs 10 through 15 of this complaint, have succeeded in harassing plaintiffs, and their future actions are likely to succeed in chilling and deterring others from entering and attending future Rainbow Family gatherings and exercising the foregoing rights.

19. Thus, unless restrained by this Court, the Defendant will continue to subject plaintiffs and many other Gathering attendees to a violation of the rights described in paragraph 18 of this count and secured to them by the First Amendment to the United States Constitution. Against such repeated future constitutional violations, plaintiffs have no adequate remedy at law, and they are entitled to declaratory and injunctive relief establishing the unconstitutionality of and restraining the Defendant's road blocks as described in paragraphs 10 through 13 of this complaint.

WHEREFORE the Plaintiffs respectfully request that this Court award to them and against the Defendant:

A. A declaratory judgment establishing that the road blocks which the Defendant has erected and maintained and will erect and maintain violate the right of Plaintiffs and others to the exercise of their right to freedom of expression, right

to assemble peaceably, right to petition for a redress of their grievances, and right to enjoy the National Forests lawfully and in peace and that all roads leading to the Gathering be opened.

B. Preliminary and permanent injunctive relief restraining each of the Defendants as well as their officers, agents, servants, employees, attorneys, and others acting in concert with them from continuing to conduct the police road blocks related to Rainbow Family gatherings which they have established within or in the vicinity of the Chattahoochee National Forest in Lumpkin County or in other Georgia counties within this District, and from targeting Plaintiffs or other Gathering attendees for harassment or other actions which will chill and deter them from exercising their constitutional and statutory rights within the Chattahoochee National Forrestr;

C. Their reasonable attorney fees pursuant to Section 2412 of Title 28 of the United States Code; and

D. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Ralph Goldberg

Ralph Goldberg

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