

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)	2:18-cv-107-RWS
SERVICE OF THE UNITED)	
STATES OF AMERICA,)	
)	
Defendant.)	

PRELIMINARY INJUNCTION ORDER

Plaintiffs, who are taking part in a “Rainbow Family” gathering in Chattahoochee National Forest in Lumpkin County,¹ have filed a complaint and motion for temporary restraining order, seeking to restrain Defendant United States Forest Service (the “USFS”)² from conducting unlawful searches and/or

¹ “The Rainbow Family Gathering is an opportunity for a loosely-structured group of like-minded citizens to pray for peace, exchange ideas, and typically, engage in some level of substance abuse.” *Holland v. Krogstad*, CV 10-374 BB/SMV, 2012 WL 13076246, at *1 (D.N.M. Aug. 23, 2012).

² The USFS is improperly named in Plaintiffs’ Complaint as the Forest Service of the United States of America. In addition, Tony Tooke resigned as Chief of the

seizures of persons or vehicles entering Chattahoochee National Forest in Lumpkin County who are participating in a Rainbow Family gathering that is taking place through July 7, 2018.³ *See* Docket No. 1.

The Court recognizes the interest of the USFS in protecting and managing National Forest System lands. The Court further recognizes the interest of the USFS in preventing and deterring criminal activity on National Forest System lands. The Court also recognizes that stopping a vehicle – even briefly – and detaining its occupants at a checkpoint constitutes a seizure of those persons within the meaning of the Fourth Amendment of the United States Constitution. And the Court recognizes that a search of a vehicle may also implicate the Fourth Amendment of the United States Constitution.

In entering this Order, the Court has not substantively evaluated the contentions set forth in Plaintiffs' complaint and motion for temporary

Forest Service on March 7, 2018; Vicki Christiansen was named the Interim Chief of the Forest Service on March 8, 2018. The USFS is an agency of the U.S. Department of Agriculture that focuses on managing and protecting 154 national forests and 20 grasslands in 43 states and Puerto Rico. The USFS's mission is to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. *See* <https://www.fs.fed.us/about-agency> (last visited July 3, 2018).

³ The Court notes that Defendant has not properly been served with process in accordance with Federal Rule of Civil Procedure 4.

restraining order, and this Order does not provide any opinion as to the merits of Plaintiffs' contentions. Moreover, in consenting to this Order, Defendant has not admitted the contentions alleged in the complaint and motion for temporary restraining order.

With the foregoing in mind and with the consent of the parties:

It is HEREBY ORDERED that Defendant USFS is enjoined from establishing or conducting checkpoints in the Chattahoochee National Forest except as authorized by law in accordance with the Forest Service Law Enforcement Handbook, FSH 5309.11.

It is FURTHER ORDERED that the USFS may establish and conduct checkpoints in the Chattahoochee National Forest provided such checkpoints comply with the U.S. Constitution and the laws of the United States as set forth in the Forest Service Law Enforcement Handbook, FSH 5309.11. *See e.g. City of Indianapolis v. Edmond*, 531 U.S. 32, 121 S. Ct. 447 (2000).

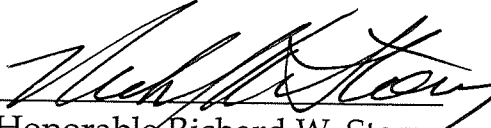
It is FURTHER ORDERED that Defendant USFS is enjoined from undertaking any motor vehicle search for criminal purposes without exigent circumstances, probable cause, or reasonable suspicion as set forth in the Forest Service Law Enforcement Handbook, FSH 5309.11.

It is FURTHER ORDERED that Defendant, its agents and its employees shall not be subject to contempt for failure to comply with this Order if such person lacks actual knowledge of this Order at the time of any alleged violation.

It is FURTHER ORDERED that this Order applies to the USFS, its agents and its employees. This Order does not apply to agents or employees of other federal, state or county agencies over whom the USFS has no control.

It is FURTHER ORDERED that this Order shall expire on July 7, 2018, at the close of the Rainbow Family gathering.

SO ORDERED, this 3rd day of July, 2018.


Honorable Richard W. Story
United States District Judge