

Federal judge dismisses charges against Rainbow Family members

By Pam Izakowitz
The Arizona Daily Star

A federal judge has dismissed criminal charges against two members of the communal Rainbow Family and ruled that requiring special permits for groups wishing to express their views in a national forest is unconstitutional.

U.S. District Judge Richard M. Bilby said the U.S. Forest Service has "every right to regulate large groups" on government land, but that the regulations must apply to all

large groups, not just some.

Assistant U.S. Attorney Negatu Molla said yesterday he would pass the information on to the U.S. Forest Service, which will have to change the regulation. He said an appeal will be up to the appellate section of the U.S. Attorney's Office, but expressed doubts that one would be filed.

Bilby's order, filed Friday, was based on a motion to dismiss criminal charges against two members of the Rainbow Family, Gideon L. Is-

rael and Patrick A. Czerniak. They were cited Nov. 27 for participating in "a gathering of 10 or more people not authorized by a special permit" at Cochise Stronghold, southeast of Tucson in the Coronado National Forest.

Israel and Czerniak faced maximum penalties of six months in jail, a \$500 fine, or both.

About 100 members of the Rainbow Family gathered in Cochise Stronghold in November. Three members were cited for violating

the regulation which says groups of 10 or more that gather on Forest Service land "for the purpose of expression or exchange of views or judgments" must get a special use permit.

The third person paid a \$50 fine under protest. Israel and Czerniak fought the citation.

In March, the group tried to gather again in Cochise Stronghold, but was barred by Cochise County sheriff's deputies because it failed to get a permit. Several people were

arrested on disorderly conduct or drug charges.

Bilby offered the group two alternative sites that could be used without a permit, and the group went to High Creek, north of Willcox.

In its motion to dismiss the charges, the Rainbow Family said the Forest Service regulation was discriminatory and violated their First Amendment rights. Had they been camping, picnicking, hiking or fishing, they would not have been cited, the motion said.

Bilby agreed.

"Such a regulation impermissibly singles out those who wish to gather in order to exercise their First Amendment rights. The court finds that this regulation is therefore unconstitutional."

In a telephone interview yesterday, Israel, of Tucson, said he was pleased by the ruling.

The group organized in 1970 and "is spiritually oriented and ecologically minded," said Barry Adams, a family member from Montana.

By GABRIELLE FIMBRES
Citizen Staff Writer

A federal judge here has dismissed charges against members of the Rainbow Family, calling a U.S. Forest Service regulation unconstitutional.

U.S. District Judge Richard M. Bilby dismissed charges against Gideon Israel and Patrick A. Czerniak last Thursday. The two faced charges stemming from a gathering of Rainbow Family members last Thanksgiving in a forest area southeast of Tucson.

Israel and Czerniak were charged with holding an assembly of 10 or more people without a permit on national forest lands at Cochise Stronghold for "the purpose of expression or exchange of views or judgment."

Israel and other Rainbow Family members argued that the regulation requiring them to obtain a permit was in violation of the First Amendment right to

charges, Bilby wrote, "Such a regulation impermissibly singles out those who wish to gather in order to exercise their First Amendment rights. The court finds that this regulation is therefore unconstitutional."

Israel, a 37-year-old resident of Olympia, Wash., said he was encouraged by Bilby's decision.

"I think this is just a good step in the right direction," Israel said. "We're just trying to show that we're giving it our best shot to be law-abiding citizens."

In February, the Forest Service barred Rainbow Family members from holding another gathering at Cochise Stronghold. But members were allowed to congregate for two weeks in the Galiuro Mountains after a federal court decision established their right to hold a gathering.

Forest Service officials contended the group left a pile of trash and trampled vegetation, but members denied the accusation.

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