

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

SCOTT ADDISON, DOUGLAS O'BRIEN,
and ARJAY SUTTON,

Plaintiffs,

Case No.: 98-53-CIV-0c-10c

v.

Judge Hodges

THE FOREST SERVICE OF THE
U.S. DEPARTMENT OF AGRICULTURE,
STEVE BINIJER, in his official capacity
as Sheriff of Marion County, and
GEORGE E. KNUPP, JR., in his official capacity
as Sheriff of Lake County, Florida,

Defendants.

SECOND AMENDED COMPLAINT FOR CIVIL RIGHTS VIOLATIONS

Plaintiffs, SCOTT ADDISON (“ADDISON”), DOUGLAS O'BRIEN (“O'BRIEN”) and ARJAY SUTTON (“SUTTON”), hereinafter referred to collectively as “Plaintiffs”, sue Defendants, THE FOREST SERVICE OF THE U.S. DEPARTMENT OF AGRICULTURE (“FOREST SERVICE”, “USFS”), STEVE BINIJER, in his official capacity as Sheriff of Marion County (“MARION SHERIFF”), and GEORGE E. KNUPP, JR., in his official capacity as Sheriff of Lake County, Florida (“LAKE SHERIFF”), collectively “Defendants”, and state:

INTRODUCTION

1. In this case Plaintiffs seek declaratory and injunctive relief against targeted roadblocks and other "pro-active" police tactics designed to interfere with public assemblies known as “Rainbow Gatherings” in the National Forests in Florida, to harass and intimidate Plaintiffs and other participants, and to discourage their attendance. Defendants have used illegal searches and seizures, heavy-handed arrests, intensive surveillance, lawsuits, threats, violence, and various other tactics against such events -- all of which violate Fourth Amendment protections and are designed to chill the exercise of First Amendment rights to free speech, expression and free

exercise of religion in the National Forests in Florida. These and related agency actions usurp authorities of public policymaking and law, and result in systematic abuses of personal privacy and welfare, prior restraint on protected speech and expression, and the violation of Plaintiffs' Civil Rights pursuant to 42 *U.S.C.* §1983.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff, ADDISON is a *sui juris* individual resident of the State of Illinois and was twice subjected to stops and searches by Defendants on Forest Road 599 (Ocala National Forest) on February 7, 1998, en route westbound to a pre-gathering encampment on FR 599A at 6 PM, and again with a dog search when leaving that encampment at 7:30 PM. He requested roadblock authorizations or guidelines and certification of the police dog, and was refused. Plaintiff Addison will attend Rainbow gatherings and other public assemblies in the future, and expects that unless restrained, Defendants will continue and intensify the use of targeted roadblocks and stops on access roads to public gatherings in the National Forests, and again subject him to illegal search, seizure, and police intimidation as a participant in First Amendment protected events.

3. Plaintiff, SUTTON is a *sui juris* individual resident of the Hawthorne, Florida, who was twice subjected to stops and searches by Defendants on Forest Road 599 (Ocala National Forest) on February 6 and 7, 1998 -- first by a roadblock at 6 PM, at the junction of FR 599 and FR 599C, approximately 1.5 miles from the 599A Camp, then the next day as a passenger in the vehicle of Plaintiff Addison leaving that encampment at 7:30 PM. In addition, Plaintiff Sutton was subjected to stop and search on February 14 and 15, 1997, by Defendants' roadblock at FR 552 and FR 544 in conjunction with a public gathering near Alexander Springs, Ocala NF. Plaintiff Sutton intends to participate in such assemblies in the future, and to contribute in a spirit of public service. He is intimidated personally and concerned on behalf of others who might be deterred from participating in a public gathering by police roadblocks and the threat of unwarranted stops, searches, seizures, and arrests.

4. Plaintiff, O'BRIEN is a *sui juris* individual resident of Jacksonville, Florida, who was subjected to stop and search en route to a Rainbow Gathering on February 22, 1997, at the

roadblock maintained by Defendants on Forest Road 546 and 544, the only direct access to the site from the north. When informed that interagency police roadblocks were again established against the public gathering in February 1998, Plaintiff O'BRIEN was deterred from attending, and is further deterred from entering the Ocala National Forest for any purpose for fear of being personally profiled and targeted for selective enforcement.

5. Defendant, FOREST SERVICE is a federal administrative agency pursuant to 5 U.S.C. §701(b). It is charged by statute and administrative regulations promulgated by the U.S. Secretary of Agriculture pursuant to Title 16 U.S.C. §551 with the governance, regulation, and operation of the National Forest System which embraces the National Forests in Florida, including all portions of the Ocala National Forest ("OcNF") and Osceola National Forest ("OsNF").

By authorities vested in its "Law Enforcement and Investigations" Division, the USFS conducts, *inter alia*, both ordinary and extraordinary law enforcement operations within the National Forests, including such operations as described in paragraph 1 of this complaint, which result directly from the agency's official and unofficial policies and actions.

6. Defendant, MARION SHERIFF, is the acting Sheriff of Marion County, Florida, and a county level, constitutional officer of the State of Florida and is sued in his official capacity only. Defendant, MARION SHERIFF, is charged with good faith enforcement of State laws within and beyond its territorial jurisdiction, including those portions of the County which are occupied by the OcNF, and as requested by or provided by contract with other law enforcement entities.

Defendant MARION SHERIFF participated in roadblocks and other intensive enforcement actions affecting public gatherings in the OsNF (Baker County, FL) in February 1996, in the OcNF (Lake County, FL) in February 1997, and in the OcNF (Marion County, FL) in February 1998.

7. Defendant, LAKE SHERIFF, is the duly elected Sheriff of Lake County, Florida, and a county level, separate constitutional officer of the State of Florida and is sued in his official capacity only. Defendant, LAKE SHERIFF, is charged with good faith enforcement of state laws within and beyond its territorial jurisdiction, including those portions of the County which are occupied by the OcNF, and as requested by or provided by contract with other law enforcement

entities. Defendant LAKE SHERIFF's Officers participated in roadblocks and other intensive enforcement actions affecting public gatherings in the Ocala National Forest in Lake County, FL in February 1997, and in Marion County, FL in February 1998.

8. All references to Defendants shall include their various agents, officials and employees.

9. This Court has jurisdiction over the claims raised herein pursuant to 5 *U.S.C.* §702, 28 *U.S.C.* §1331, 28 *U.S.C.* §1343, 28 *U.S.C.* §2201, 28 *U.S.C.* §2202, 42 *U.S.C.* §1983, 42 *U.S.C.* § 1985, and 42 *U.S.C.* §1988.

10. Venue is appropriate in the Middle District of Florida, Ocala Division, since the various acts complained of occurred within that district and division.

FACTUAL ALLEGATIONS

11. Rainbow Gatherings are public assemblies which periodically occur in the National Forests in Florida and elsewhere, where participants gather to exercise the First Amendment rights of peaceable assembly, expression, speech and prayer, in a spirit of public service. Such gatherings are consensual assemblies in the full meaning and intent of the First Amendment, conducted by individual participants in cooperation, without any organizing group or entity.

12. Most of these individuals, including Plaintiffs, attend such gatherings in order to meet and assemble with each other to exchange views and/or worship together in communion and to pray for world peace in the cathedral of nature. The federal courts have recognized that National Forest lands are a traditional public forum for expressive activities, and the protected nature of these events.

13. Defendant, FOREST SERVICE, has demonstrated hostility towards public gathering participants in the National Forests in Florida for at least **three (3) years**. This hostility is consistent with an unpromulgated national policy of prejudice and animus toward Rainbow Gatherings nationwide since their inception in 1972. Through the years various draconian tactics have been employed to harass and impede these events, including roadblocks, surveillance, subterfuge, arrests, heavy police presence and provocation.

14. New federal regulations requiring a temporary Special-Use Permit for “Group Uses” (36 CFR §251,261) were proposed by Defendant, FOREST SERVICE, in May 1993 [Fed.Reg, 58:86, 26940], and enacted in September 1995 [Fed.Reg, 60:168, 45257]. The final rules require individual signers to assume vicarious liabilities, and to accept various arbitrary terms and conditions that are impossible for gathering participants **in a free assembly** to fulfill -- thereby triggering police presence and enforcement actions against occupancy of National Forest lands by 75 or more people without a special-use authorization. [36 CFR 261.10(k)] The presumed enforcement powers include authorities to interfere with traffic and activities, identify individuals and designate liable “leaders”, prosecute selectively, legally enjoin, and physically exclude public gathering participants from National Forest lands.

15. **In September, 1998 the US District Court in Arizona ruled that the non-commercial group use regulations are unconstitutional as a matter of law, stating that the regulatory scheme is impermissibly broad and subject to unbridled official discretion. Accordingly the court dismissed an alleged ‘Group Use’ violation on a defendant’s motion, finding the permit requirement and enforcement thereof to be unlawful and not binding. U.S. v. Linick, #98-4142MA, 9/27/98**

16. Defendant, FOREST SERVICE, began nationwide enforcement of the “Group Use” rules against a Rainbow gathering in the Osceola National Forest (OsNF) in February, 1996. A large multi-agency police force including Defendant, MARION SHERIFF, was deployed around and inside this event, using various tactics to intimidate and deter participants, including on-site patrols and searches, roadblocks at nearby points of access, and police “gauntlets” affecting traffic on incoming highways and Forest Roads. Participants were subjected to seizures, searches, and citations, with many arrests and continuing intrusions upon gathering access and activities.

17. At the direction of Defendant, FOREST SERVICE, Officers used personal seizures and intensive roadblocks at the OsNF gathering in February 1996 to harass and obtain identifications of individual participants. USFS Officials used this information for purposes of filing a civil suit against the “Rainbow Family” alleged as a class, selecting thirty-three (33) of these individuals and naming them as representative defendants. This Federal lawsuit moved that

the 'Group Use' regulations be ruled valid and Constitutional, and sought a nationwide injunction against unpermitted public gatherings in the National Forests. It did not succeed in these purposes, but the final ruling left 12 people under default judgment, and lent presumptive validity to the Government's unchallenged use of roadblocks and related police actions for purposes of 'Group Use' enforcement and litigation.

18. The campaign of harassment continued the following year, in conjunction with the February 1997 Rainbow gathering near Alexander Springs, Ocala National Forest (Lake County). As participants began to arrive on or about February 11, 1997, Defendants deployed a large police force on and around Forest Road 544 with aerial surveillance in support. Under color of 'Group Use' permit enforcement, Defendants' Officers targeted intensive enforcement, stops, and searches on incoming vehicles, impeding traffic and using confrontative tactics to pressure participants into signing a permit. They also seized control of the "Welcome Home" area at the trailhead into the gathering site, prohibited parking nearby in both directions, and maintained a continuing presence *in that vicinity* throughout the gathering.

19. Defendants maintained major roadblocks generally in two locations simultaneously during high-traffic periods of both weekends of the gathering, including February 14, 15, 21, and 22, 1997, and possibly other dates. Three principal locations were used for this purpose, encompassing the only routes of vehicle access to the gathering site:

(A) Junction of Forest Roads 546 and 544, the only direct route to the public gathering site from the North; (B) junction of Forest Roads 552 and 544, and (C) F.R. 552, about one-quarter mile west of 544, both on the only direct route to the site from the South.

20. Defendants established the location and timing of these roadblocks so as to target gathering participants specifically, and to affect as many participants as possible during periods of peak ingress and egress. Virtually every gathering participant used F.R. 544 to reach the gathering site, park and handle supplies, and depart. Conversely, few if any persons not connected with the gathering used or were likely to use F.R. 544 at these times.

21. Plaintiff, SUTTON, was stopped twice on Forest Roads 552 and 544, on February 14 and 15, 1997. On the first occasion he was transporting several hundred pounds of food supplies to the event, and had to resist a dog search for reasons of public health. The following day he was stopped again outbound to the lake landing east on F.R. 552, and **detained for thirty minutes by Officers who harassed** and demanded identification from passengers in his vehicle.

22. On February 22, 1997, Plaintiff O'BRIEN was subjected to an illegal stop and search while entering the site from the North, at the roadblock maintained by Defendants at the junction of Forest Road 546 and 544.

23. All Defendants deployed police personnel, vehicles, and equipment in significant force at these roadblocks, with prominent display of arms and the use of intensive area floodlights at night. Other known and unknown agencies were involved in the roadblocks, and numerous other units were engaged in related surveillance, stakeouts, and enforcement actions, targeted against "Rainbows" on-site and on tributary roads.

24. Defendants maintained these roadblocks on the pretext of conducting vehicle "Safety Checks", resulting in many participants being subjected to interrogation, demands for passenger identifications, misuse of detection dogs, searches without warrant, cause, or consent, and prosecutions on alleged cannabis "traces" or "paraphernalia". On information and belief, many citations were issued on petty infractions, or where no violation had occurred. A number of public strip searches were conducted, a young woman was sexually molested by a female police officer, numerous arrestees reported mistreatment in the Lake County jail, and friends coming to the courthouse to assist were harassed in Tavares.

25. On Saturday afternoon, February 22, 1997 a small group of about 20 gatherers staged a peaceful demonstration and Vigil at the F.R. 552 roadblock site, observing procedures and encouraging new arrivals who were being stopped. At no time did Vigilers impede traffic or interfere with officers in the conduct of their duties, nor did any of them cross police lines when officers confined them to a small area. A few arrests were made against people unwittingly returning to their cars or just trying to get through the area. Defendants' officers then jumped the

police lines and began arresting and macing Vigilers, observers, and photographers, chasing a man fleeing through the woods, manhandling detainees on the ground, dragging some through the mud by their hair. Twelve (12) people were arrested in the Vigil incidents that day; most were charged with “obstructing” or “resisting without violence”, although a 90-pound young woman faced two felony charges of assault against officers, high bail, and spent thirty-three days in jail.

26. Defendants’ roadblocks and related police actions at the Alexander Springs gathering site (OcNF) between February 11 and February 24, 1997 resulted in the arrest and incarceration of about ninety (90) known participants in that gathering, many violations of civil rights, and a climate of fear around this First Amendment event.

27. Beginning in late January, 1998, individuals began arriving in the OcNF situated in Marion County, Florida, in order to prepare for and participate in a public gathering, which was expected to continue for approximately two (2) weeks through late February, 1998.

28. On or about February 2, 1998, a public announcement was posted on the Internet identifying the location of the gathering at Juniper Prairie in the ONF from February 11th to February 25th, and providing directions via Forest Road 599 to a separate temporary campsite on Forest Road 599A.

29. On or about February 4, 1998, Defendant, FOREST SERVICE, issued notice of an impending “prescribed fire” at Juniper Prairie to be carried out on February 5-6 as a technique for restoring native prairie ecology, with public warning to stay out of the designated area during the fire and thereafter.

30. On February 5 and 6, 1998, crews of ‘Burn Specialists’ authorized by Defendant, FOREST SERVICE, conducted controlled burns of surface vegetation extensively in the Juniper Prairie Wilderness, through large areas of land sections east of F.R. 65, and south of F.R. 10. The fires left the meadows, pondsides, and some forest understory scorched, blackened and smoldering into the weekend. That area included the intended gathering site, right at the time intended participants had planned to go there and prepare. This created much fear of extreme official measures to deter a gathering, and much concern over impacts to this sensitive site.

Plaintiffs believe and therefore allege that the controlled burn of Juniper Prairie was conducted in response to the announcement of the proposed gathering site.

31. Defendants further mobilized their forces in response to the temporary campsite, and established and maintained police roadblocks on Forest Road 599 within the OcNF, near the boundary of Marion and Lake counties.

32. This sector of F.R. 599 provided the main direct means of vehicular access to and from the temporary “holding” encampment on F.R. 599A. Virtually every camper or visitor in the ‘599A’ holding camp had to use that road to reach the campsite or depart. Conversely, few if any persons not connected with the temporary camp used or were likely to use Forest Road 599 at this particular time.

33. By the location and timing of the roadblocks on FR 599, Defendants targeted travelers on the only direct route to and from the ‘599A’ camp. These actions were intended to intimidate and harass people staying at or visiting that camp, on the presumed grounds that they were likely to participate in a public gathering to commence in mid-February at a nearby OcNF site.

34. On February 6, 1998, the roadblock was established at the junction of F.R. 599 and 599C, approximately 1.5 miles from the ‘599A’ Holding Camp. Reportedly Defendants stopped and temporarily detained pedestrians walking on the road, as well as vehicles.

35. On February 7, 1998, Defendants again established a roadblock on Forest Road 599, on this occasion at the junction of F.R. 562, less than one-half mile from the ‘599A’ Holding Camp. Defendants FOREST SERVICE, MARION SHERIFF, and LAKE SHERIFF were all present and participating in this roadblock. Plaintiff, ADDISON, was stopped at this location with one passenger in his vehicle, while entering the campsite at about 6 PM. Defendants’ Officers visually inspected the interior of Plaintiff’s van, demanded identification of Plaintiff and his passenger, conducted a vehicle safety check, then allowed Plaintiff’s vehicle to pass.

36. At about 7:30 P.M. on the same evening, Plaintiff, ADDISON, was stopped at the same location again while leaving the ‘599A’ Holding Camp with two passengers. Defendants demanded vehicle papers and ID’s a second time; Plaintiff asked to be allowed to proceed, stating

that he had just passed through a check point inbound at 6 P.M., and questioning legal authorities. Defendants then directed Plaintiff to pull over for a search by a drug detection dog. Plaintiff denied consent, but was compelled to pull to the side; police handlers brought over a dog and walked it around the vehicle, but the dog did not indicate a "hit". Plaintiff requested the dog's certification for use in official searches, but Defendants refused to provide such proof.

37. On February 10, 1998, Defendant, FOREST SERVICE, erected "No Parking" signs along F.R. 10 on the north perimeter of the gathering site, limiting supply access via the shortest trail approximately 1.2 miles west of F.R. 65. Gatherers then had to set up the main gate at the head of a longer trail off F.R. 65, about one (1) mile south of F.R. 10, at the junction F.R. 76 abutting F.R. 65 from the west.

38. Thereafter, on information and belief, Defendants established roadblocks on February 13, 14, and 20, 1998, and possibly other dates, at the following three (3) locations surrounding the entrance to the Juniper Prairie gathering site:

- a) F.R. 65 approximately 600 feet south of the main gate;
- b) F.R. 65 approximately 600 feet north of the main gate;
- c) F.R. 76 approximately one-quarter (1/4) mile west of the main gate.

39. By virtue of their temporal and spacial proximity to the 599A camp and the Juniper Prairie gathering sites respectively, the Police roadblocks which Defendants maintained on F.R. 599, F.R. 65 and F.R. 76 differed substantially from ordinary roadblocks: They were not designed or likely to serve any generalized law enforcement objectives, nor to serve as safety checks, but were instead targeted at those who were believed by officials on the basis of personal appearance and association to be likely attendees at this public gathering, while deliberately avoiding or strictly minimizing any imposition on the residents of Marion and Lake counties, or other visitors to the Ocala National Forest.

40. On information and belief, Defendants conducted systematic surveillance on this gathering and its participants, by various means including police stakeouts, undercover observers, on-site videotaping, radio monitoring, aerial photography, and remote sensing devices.

41. The roadblocks referenced above have been established and maintained at such times and places whereas to selectively target Plaintiffs and other persons who attend Rainbow Gatherings, while minimizing or avoiding any intrusion, search or seizure of persons not connected with such gatherings.

42. Defendants and others affiliated with them have historically maintained an intensive and chilling police presence including roadblocks around public gatherings in Florida, as a matter of deliberate policy. Defendant, FOREST SERVICE publicly stated in November, 1997 that *"the agency puts up roadblocks every time the Rainbow Family gathers in a national forest."*

(The Daily Commercial, Leesburg FL, 11/14/97)

43. According to public documents relating to published notice of roadblocks by Defendants, the only major, multi-agency roadblocks which have occurred in the National Forests in Florida since 1996 have been timed so as to coincide with Rainbow Gathering activities, traditionally in February each year.

44. Defendants used threat of violence and prosecution to compel unauthorized persons to sign Group Use Permits for the OcNF gatherings in February 1997-98, yet maintained roadblocks targeting participants, despite the fact that these events were legal and authorized under permits issued by Defendant FOREST SERVICE.

45. Each of the roadblocks referred to above have included a requirement that the drivers and passengers of the stopped vehicles identify themselves and produce their vehicle registration and insurance documents. This practice has continued despite the fact that Defendant, FOREST SERVICE, has stated officially that *"...it is not necessary or appropriate to search cars entering the Gathering or to verify the driver's car registration, insurance, and license."*

[Fed.Reg., 8/30/95; 60:168, 45266.]

46. The searches and seizures occurring at these roadblocks were unlikely to promote any actual, legitimate law enforcement goal or objective, and they constituted a serious intrusion upon the reasonable expectation of privacy on the part of Plaintiffs and others who were stopped, searched and seized.

47. The searches and seizures of Plaintiffs were conducted in the absence of probable cause or any individualized articulable suspicion to believe that Plaintiffs or other had committed any offenses which would justify detention, questioning or arrest.

48. The roadblocks referenced above have been punctuated by incidences of unreasonable use of force, strip searches, sexual harassment, abuse of pregnant woman, searches of small children, illegal canine tactics and illegal arrests.

49. Defendant, FOREST SERVICE generally manages such gatherings by forming an “Incident Command Team”, composed of selected USFS Law Enforcement and ‘Line’ staff from the region and elsewhere, with local authorities derived from the District Ranger via written and/or verbal waivers. De facto policy decisions to establish roadblocks on public gatherings have been made principally or unilaterally by Law Enforcement personnel of Defendant, FOREST SERVICE, on these general authorities and broader powers to fund and enact interagency law enforcement agreements to such ends.

50. The vehicle roadblocks or “safety checks” occurring coincidentally at or near Rainbow Gatherings are not supported by any approved Forest Service Policy.

51. There are no official guidelines authorizing or governing the conduct of the above referenced roadblocks in the National Forests.

52. As further evidence of the pattern of harassment and animus toward Rainbow Gathering participants, in late-June and early July 1996 Defendant, FOREST SERVICE established roadblocks less than a mile from the entrance to the Ozark Rainbow Gathering, in Mark Twain N.F. (MO). Despite formal appeals to remove them, stops and seizures targeting participants continued nearly throughout the event, resulting in 31 arrests and 499 citations. The Forest Service alone spent \$300,000 on roadblocks and law enforcement at this Gathering. On July 23, 1996 a civil suit was filed in Federal District Court (Kansas City) against the Forest Service and collaborating State and County police agencies, seeking declaratory and injunctive relief from targeted roadblocks and related Fourth Amendment violations.

[Park v. Forest Service, et. al; #96-3288-CV-S-3; U.S. District Court, Kansas City, MO].

53. In September 1997 Defendant FOREST SERVICE moved for a Stay of proceedings in the Missouri roadblock case cited above, pending formation of a “National Check Point Policy” by USFS administrators. On information and belief, this planned ‘Policy’ would empower USFS officers to conduct roadblocks on public events in the National Forests, with broad discretions as to the purposes and conduct of such actions, and create new enforcement authorities not heretofore held independently by this federal agency.

54. On September 24, 1997 certain officials of Defendant FOREST SERVICE issued a document entitled "Region 8 LE&I Vehicle Checkpoint Policy", asserting powers of USFS Law Enforcement & Investigations personnel operating within that Region to establish vehicle “checkpoints” on their own discretion without prior notice or authorization, and in violation of existing USDA guidelines and Fourth Amendment constraints.

55. Despite pending civil litigation against such practices, roadblocks resumed in Ocala N.F. in February 1997, and again in February 1998, with the Stay in Missouri case proceedings still in effect. By these measures Defendant, FOREST SERVICE acted in bad faith on its stated intent and public mandate to desist from such tactics while related legal and administrative issues remained to be resolved.

56. On February 20, 1998, this Court found that evidence adduced at the preliminary injunction hearing strongly suggested the Defendant, FOREST SERVICE had selectively targeted its enforcement efforts against Plaintiffs, and that its actions may not be in accordance with the Fourth Amendment to the Constitution of the United States. Preliminary Injunction at p.2. Accordingly, the Court enjoined the practice of safety checks and/or motor vehicle stops and searches except in particular circumstances.

57. Defendants, MARION SHERIFF and LAKE SHERIFF, also agreed to this injunction.

58. However, even after the issuance of the injunction, Defendant, FOREST SERVICE in conjunction with State of Florida law enforcement officers, continued to maintain roadblocks on

F.R. 65 so as to target participants of the Rainbow gathering at Juniper Prairie on February 20, 21, and possibly February 22, 1998.

59. A month later, Defendant FOREST SERVICE mounted aggressive roadblocks and other actions against a small regional gathering in Homochitto National Forest, Mississippi, with Covich and Hinds County Sheriff's Departments and Federal Marshals participating. On March 20 and 21, 1998, and possibly other dates, multi-agency roadblocks were set up with a large number of police personnel and vehicles in front of the gathering entrance, conducting illegal searches and seizures, direct intimidation, and physical and sexual assaults on gathering participants. On March 21, 1998 police officers entered the site with personal and vehicle identifications concealed, and carried out a full-scale raid on encampments near the parking area -- entering private vehicles and shelters without warrant or probable cause, and seizing photographic and written documentation from participants. Between 30 and 40 people were arrested as a result of police actions that weekend, many of whom were held for several days in the Covich County jail, until a civil rights suit was filed with the Federal Court in Jackson, Mississippi.

60. Plaintiffs fully intend to attend future Rainbow Gatherings and other public assemblies which may be held in the National Forests in Florida within this District, and to participate in pre-gathering site preparation and/or post-gathering site restoration and stewardship efforts.

61. Based on their past conduct, Defendants will, unless restrained by this Court, again establish and maintain police roadblock operations similar to those described above whenever there is a Rainbow Gathering. Plaintiffs and others will also face unreasonable searches and seizures by Defendants as they travel to and from the sites of these future gatherings.

62. All conditions precedent to the bringing of this action have been performed, waived or excused.

63. Plaintiff, O'BRIEN has retained the undersigned firm to prosecute this action and is obligated to pay said firm a reasonable fee for its services. Plaintiffs Pro Se, ADDISON and SUTTON have acted as co-counsel, and have incurred reasonable expenses in pursuing legal remedy on their own behalf.

LEGAL ALLEGATIONS

64. The spiritual and cultural activities engaged in by public gathering participants in the National Forests in Florida constitute free speech, expression and religion and are therefore fully protected by the First, and Fourteenth Amendments to the United States Constitution.

65. The police tactics referenced above are selectively targeted for use upon Plaintiffs and other participants in the Rainbow Gatherings.

66. The police tactics referenced above chill the exercise of free speech, expression and religion by Plaintiffs and others attending the Rainbow Gatherings in the National Forests in Florida.

67. The climate of fear generated by the police tactics referenced above has created a prior restraint on free speech and expression which is presumed to be unconstitutional.

68. The police tactics referenced above violate the Fourth Amendment's proscription against unreasonable searches and seizures.

69. Federal law does not allow for the roadblocks utilized by Defendants on federal lands.

70. Defendants' failure to utilize specific written guidelines when conducting the above referenced roadblocks itself results in a Fourth Amendment violation.

71. The delays incurred by persons waiting in line at the above referenced roadblocks, or being interrogated and searched while not free to leave, constitute an unconstitutional temporary deprivation of liberty.

72. The roadblocks are operated in such a manner so as to unnecessarily delay motorists, detain passengers, and impede pedestrians in travel.

73. Defendants have enacted an unpromulgated "policy" regarding treatment of roadblocks as applicable to Rainbow Gatherings which constitutes an unlawful delegation of legislative and/or administrative authority by the Defendants.

74. The "Region 8 LE&I Vehicle Checkpoint Policy" dated September 24, 1997 assumes regional authorities not previously held by USFS officers, usurps existing USFS guidelines and national policymaking by the U.S. Department of Agriculture, and was promulgated without public

notice or opportunity for public comment or hearings, thereby violating provisions of the Administrative Procedure Act.

75. Defendants conspired with and among each other to commit the civil rights violations alleged herein in violation of 42 *U.S.C.* §1985, and have demonstrated a clear animus against the class of persons desiring to attend “Rainbow Gatherings” based solely on attendees’ appearance, creed, and ways of religious and political expression.

76. The manner in which the roadblocks were deployed, searches conducted, and arrests made constitutes objective evidence of Defendants’ bad faith.

77. The actions of Defendants are motivated by a predominantly censorial purpose based on the spiritual and cultural creed exercised by Plaintiffs and other public gathering participants, and the desire to wage a war of attrition under color of law, and put an end to future Rainbow Gatherings through harassment, intimidation and other illegal law enforcement conduct.

COUNT I Declaratory Relief

78. Plaintiffs re-allege the allegations contained in Paragraphs 1 through 77, inclusive.

79. This is an action for declaratory and supplemental relief pursuant to 28 *U.S.C.* §§2201 and 2202, asking the Court to declare the respective rights, status, and other equitable and legal relations between Plaintiffs’ and Defendants with respect to their individual and collective actions.

80. Plaintiffs contend that the campaign of bad faith harassment, heavy-handed police tactics and illegal roadblocks directed at Plaintiffs’ First Amendment protected activities constitute a violation of 42 *U.S.C.* §1983 and §1985, and in conjunction with related official actions to establish public policy by police fiat, further constitute a violation of 5 *U.S.C.* § 501 *et.seq.*, § 553, and § 706 of the Administrative Procedure Act

81. Defendants will likely contend that their actions are legal and constitutional.

82. There is an actual, *bona fide* dispute between Plaintiffs and Defendants.

WHEREFORE, Plaintiffs request that this Court grant the following relief:

a. Enter a declaratory judgment determining that the campaign of bad faith harassment, heavy-handed police tactics, illegal roadblocks, and unlawful policymaking violate 42 *U.S.C.* §1983 and §1985, and 5 *U.S.C.* § 501 *et.seq.*, § 553 and § 706.

b. Grant such further relief pursuant to 28 *U.S.C.* §2202 as is equitable and just under the circumstances; and

c. Enter an Order awarding Court costs incurred in prosecuting this action including a reasonable attorney's fee and pro se expenses pursuant to 42 *U.S.C.* §1988.

COUNT II
Permanent Injunctive Relief

83. Plaintiffs re-allege the allegations contained in Paragraphs 1 through 77, inclusive.

84. This is an action for permanent injunctive relief.

85. This Court entered a preliminary injunction against Defendant, FOREST SERVICE on February 20, 1998, prohibiting some of the challenged conduct by Defendant, FOREST SERVICE.

86. Defendants, MARION SHERIFF and LAKE SHERIFF thereafter stipulated to the entry of the same preliminary injunction against those Defendants.

87. In the absence of a permanent injunction, Defendants will continue to intimidate, threaten, harass and otherwise violate the First and Fourth Amendment rights of Plaintiffs and other Rainbow Gathering participants in the absence of a permanent injunction.

88. Prospective injunctive relief is appropriate upon the declaration by this Court that the above described conduct constitutes a violation of 42 *U.S.C.* §1983 and §1985.

89. Loss of First Amendment rights, even for minimal periods of time, constitutes irreparable injury *per se*.

90. The loss of constitutionally protected speech, expression and/or religion is not readily valued or measured, and thus any legal remedy is *per se* inadequate when deprivation of First Amendment rights are involved.

91. The granting of a permanent injunction would be consistent with the public interest since it would serve to protect the First and Fourth Amendment rights of Plaintiffs and other participants in the Rainbow Gatherings in the ONF. On the other hand, the denial of permanent injunction would be contrary to the public interest since it would result in the denial of cherished constitutional rights and freedoms.

92. Any harm to Defendants by the inability to continue in their campaign of harassment and intimidation is outweighed by the harm to the Plaintiffs and other “Rainbow Gathering” participants by the inability to exercise their freedoms without harassment, intimidation and violation of their civil rights.

WHEREFORE, Plaintiffs request that this Court grant the following relief:

a. Issue a permanent injunction prohibiting Defendants from committing additional constitutional violations through their targeted law enforcement tactics, roadblocks, searches, seizures and arrests; and

b. Enter an Order awarding court costs incurred in prosecuting this action including a reasonable attorney’s fee and pro se expenses pursuant to 42 *U.S.C.* §1988.

DEMAND FOR JURY TRIAL

93. Plaintiffs hereby demand trial by jury on all issues so triable.

WASSERMAN & WALTERS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished , by U. S. Mail to Reginald Luster, Esquire, Attorney for Defendant, The Forest Service, Office of the U.S. Attorney, Sun Trust Bank Building, 200 West Forsyth Street, Suite 700, Jacksonville, Florida 32202 and Caroline Ann Falvey, Esquire, Attorney for Lake and Marion Sheriffs, Post Office Box 2720, Ocala, Florida 34478-2720, this 17th day of December, 1998.

Lawrence G. Walters