

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

SCOTT C. ADDISON, *et al.*,

Plaintiffs,

v.

Case No. 98-137-Civ-J-20C

UNITED STATES FOREST
SERVICE, *et al.*,

Defendants.

ORDER

This matter came before the Court for a hearing on Plaintiffs' Motion for Preliminary Injunction (Doc. No. 2, filed February 13, 1998) and Defendants Ken Ergle's (Sheriff of Marion County, Florida) and George E. Knupp, Jr.'s (Sheriff of Lake County, Florida) Emergency Motion to Dismiss or, in the Alternative, for Continuance (Doc. No. 5, filed February 19, 1998) on Friday, February 20, 1998, at 3:00 p.m.

I. Motion to Dismiss / Continue

Defendants Ergle and Knupp have represented to the Court that they require a continuance to adequately prepare a response to Plaintiffs' Motion for Preliminary Injunction. Ergle and Knupp have further represented that they will not participate in the complained-of conduct until the prayed-for continued hearing takes place. Plaintiffs do not object to a continuance under these circumstances. Accordingly, the Motion for Continuance (Doc. No. 5, part 2) is **GRANTED**, and the hearing on the Motion for Preliminary Injunction as to Defendants Ergle and Knupp will take place on February 25, 1998, at 3:00 p.m. before the undersigned. The Motion to Dismiss (Doc. No. 5, part 1) is **MOOT** in light of Plaintiffs' Amended Complaint (Doc. No. 6, filed February 20, 1998).

II. Motion for Preliminary Injunction

The Court may grant a preliminary injunction where the movant demonstrates: (1) a substantial likelihood of success by the movant on the merits; (2) that the movant will suffer irreparable harm unless the injunction issues; (3) that the threatened injury to the movant outweighs

any threatened harm the injunction may cause the opposing party; and (4) that the injunction, if issued, "will not disserve the public interest." Bryan v. Hall Chemical Co., 993 F.2d 831, 835 (11th Cir. 1993).

In this case, Plaintiffs allege that Defendants have conducted, and plan to continue conducting, roadblocks and vehicle searches in or near the Ocala National Forest ("ONF"). Plaintiffs further allege that these roadblocks unlawfully prevent or deter Plaintiffs' access to the ONF, where they occasionally meet with fellow members of a loosely organized group sometimes called the "Rainbow Family." Plaintiffs contend that Defendants have specifically, and unlawfully, aimed these roadblocks and searches at Plaintiffs and others similarly situated.

Defendant United States Forest Service argues that the roadblocks and searches are lawful, and are necessary to: (1) enforce Forest Service rules and regulations promulgated to protect the national forest and ensure public safety; (2) ensure that drivers and vehicles are properly licensed, and that drivers are not under the influence of alcohol or drugs; and (3) ensure that vehicles are parked in designated parking areas, so that forest roads are kept clear to readily provide emergency ingress and egress. The Forest Service also contends that it has not selectively targeted Plaintiffs or any other group.

During the hearing, Plaintiffs adduced evidence, inter alia, that Defendant Forest Service has checked the identities of vehicle *passengers* traveling to Rainbow Family gatherings, and that at least one plaintiff was stopped upon entering *and exiting* the ONF. The Court fails to see how these actions could possibly serve the public interests Defendant Forest Service has advanced in support of the roadblocks, or any other legitimate public interest. Moreover, this evidence strongly suggests that Defendant Forest Service has selectively targeted its enforcement efforts against Plaintiffs, and that its actions may not, at least in some instances, be in accordance with the Fourth Amendment to the Constitution of the United States.

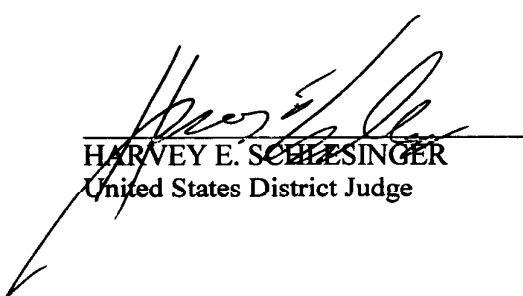
Consequently, the Court finds that Plaintiffs have demonstrated a substantial likelihood of success on the merits. Furthermore, if Defendant Forest Service is allowed to continue conducting

roadblocks in the manner in which it has previously done so, Plaintiffs will suffer irreparable harm by being prevented or deterred from entering and enjoying the Ocala National Forest. Finally, since compelling Defendant Forest Service to comply with existing federal law can only inure to the public's benefit, and will in no way impose any harm upon Defendant Forest Service, it is hereby

ORDERED AND ADJUDGED that:

- (1) Plaintiffs' Motion for Preliminary Injunction (Doc. No. 2) is **GRANTED**.
- (2) Defendant United States Forest Service is hereby **ENJOINED** from establishing or participating in roadblock "safety checks" in the Ocala National Forest, except to ensure that the possession or operation of motorized vehicles on a Forest Service road is not in violation of the laws of the United States or the State of Florida, and is in conformance with current United States Department of Agriculture regulations and policies. Defendant United States Forest Service is **FURTHER ENJOINED** from making any motor vehicle stops and / or searches for criminal purposes without individualized exigent circumstances or other proper and articulable individualized suspicion or probable cause, as the United States Constitution so requires.

DONE AND ORDERED at Jacksonville, Florida this 24th day of February, 1998, *nunc pro tunc* to February 20, 1998, at 6:15 p.m.


HARVEY E. SCHLESINGER
United States District Judge

Copies to:

Lawrence G. Walters, Esq.
Scott C. Addison, *Pro Se*
Arjay Sutton, *Pro Se*
Reginald Luster, Esq. (AUSA)
Carol A. Falvey, Esq.

Garry Randolph, Courtroom Deputy
Law Clerk

ORDER
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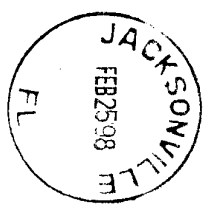
Scott C. Addison
508 E. Kirkwall Ln.
Schaumburg, IL 60193

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JACKSONVILLE, FLORIDA 32201
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