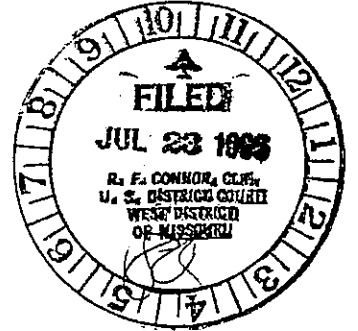


23 July 1966

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION



TRACIE PARK,

Plaintiff,

vs.

The FOREST SERVICE of the United
States Department of Agriculture;
Col. FRED MILLS, Superintendent
of the Missouri Highway Patrol,
in his official capacity; and the
COUNTY OF OREGON,

Defendants.

Case No.

Judge

96-3288-CV-S-3

COMPLAINT

NOW COMES the Plaintiff in the above-captioned case, Tracie Park, by and through her attorneys, Fred Slough, S. Douglas Bonney, David Garner, and Reed Lee, and complains against the Defendants, the Forest Service of the United States Department of Agriculture, Col. Fred Mills, and the County of Oregon as follows:

Nature of the Action

1. This action seeks [REDACTED] declaratory and injunctive relief resulting from police road blocks which the Defendants have established and maintained and which they threaten to establish and maintain in the future in or near portions of the Mark Twain National Forest in Oregon County and in other Missouri counties within the territorial jurisdiction of this Court during the times when the Rainbow Family was, is, and will

be gathering in the Mark Twain National Forest. The establishment and maintenance of these police road blocks directly results in the conduct by the Defendants 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 Plaintiff has faced these road blocks before and, unless they are restrained, she will likely face them in the future as she travels to and from such gatherings.

2. This action arises under the First and Fourth Amendments to the United States Constitution, as made applicable to some of the Defendants by the due process clause of the Fourteenth Amendment thereto, under Sections 701, 702, 703, and 706(2)(b) of Title 5 of the United States Code, under Sections 2201, 2202, and 2412 of Title 28 of the United States Code, and under Sections 1983 and 1988 of Title 42 of the United States Code.

Jurisdiction and Venue

3. This Court has jurisdiction over the subject matter of this action under Sections 702 and 703 of Title 5 of the United States Code, under Sections 1331 and 1343(a)(3) of Title 28 of the United States Code, and under Section 1983 of Title 42 of the United States Code because the Plaintiff seeks ~~XXXXXXXXXXXXXXXXXXXX~~ declaratory and injunctive relief claiming a violation, under

color of both federal and state law, of rights secured to her 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 Western District of Missouri.

Parties

5. Plaintiff Tracie Park ("Park") is a licensed driver who attended the 1996 Annual Gathering of the Rainbow Family which took place in a portion of the Mark Twain National Forest ("MTNF") in Oregon County, Missouri, during late June and early July, 1996. In traveling to and from that gathering, Park was repeatedly subject to searches and seizures in the nature of a police road block which the Defendants established and maintained along the Forest Service access road which was necessary to reach the gathering site. Prior to attending the 1996 Annual Gathering, Park attended other annual and regional Rainbow Family gatherings at which she and others were subject to similar road block style searches and seizures. Park fully intends to attend future annual and regional Rainbow Family gatherings as well, including some which will certainly take place in the MTNF and likely in Oregon County, as specified more fully in paragraph 17 of this complaint. She expects that, unless they are first restrained, the Defendants will again subject her to searches and seizures in the form of police road blocks set up on access roads to the sites of all future Rainbow Family gatherings.

6. The Defendant Forest Service of the United States Department of Agriculture ("USFS") is a federal administrative agency within the meaning of Section 701(b) of Title 5 of the United States Code. It 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 MTNF. 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 5 of this complaint. These police road blocks result directly from the agency's official policies and actions.

7. Defendant Col. Fred Mills ("Mills") is the Superintendent of the Missouri Highway Patrol, which is a law enforcement agency established and operating under the laws of the State of Missouri. Pursuant to their powers under State law, Mills and the Missouri Highway Patrol conduct, inter alia, both ordinary and extraordinary law enforcement operations throughout the State of Missouri. At Mills' direction or pursuant to his policies and orders, officers of the Missouri Highway Patrol participated in the police road blocks described in paragraph 5 of this complaint. At all times and in all matters material, Mills and his subordinates acting at his direction have acted and will act

under the color of the laws of the State of Missouri. He is a person within the meaning of Section 1983 of Title 42 of the United States Code, and he is sued in his official capacity.

8. The Defendant County of Oregon ("County") is a body politic and a political subdivision of the State of Missouri which is organized and operating under the laws of the State of Missouri. The County is a person within the meaning of Section 1983 of Title 42 of the United States Code. Pursuant to its powers under State law and to the determinations and directions of its elected officials and appointed law enforcement officials, the County conducts, inter alia, both ordinary and extraordinary law enforcement operations within its territorial jurisdiction, including those portions of the County which are occupied by the MTNF. The County has in the past and, unless restrained, it likely will in the future establish and maintain within its territorial jurisdiction the police road blocks which are described in paragraph 5 of this complaint. On information and belief, the County's participation in these police road blocks results directly from agreements with the USFS which were concluded on the County's behalf by the highest ranking County officials responsible for directing the County's law enforcement policies, efforts, and actions.

General Allegations

9. Beginning in mid-June and continuing through mid-July, 1996, many persons began traveling to and from a location within the MTNF in Oregon County in order to attend and return from the

1996 Annual Gathering of the Rainbow Family. Most of these persons, including Park, attended that 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 MTNF at various times during the 1996 Annual Gathering in order to secure supplies and communicate with others during the gathering. Most persons who had attended that gathering left the MTNF on or about July 10, 1996, but a number of persons, including Park, will remain at the site for varying periods in order to restore the gathering site to the condition it was in prior to the gathering.

10. Beginning in mid- or late-June, 1996, the Defendants established and maintained a police road block on Forest Service Road 3173 within the MTNF in Oregon County, Missouri. This road block was established approximately one miles from the Welcome Home area of the 1996 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. Forest Service Road 3173 provided 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 used that road 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 Forest Service Road 3173 at any time material. By virtue of its tempo-

ral and spatial proximity to the 1996 Annual Gathering, the police road block which the Defendants maintained on Forest Service Road 3173 differed substantially from ordinary road blocks in that it was not designed or likely to serve any generalized law enforcement objectives but was instead targeted at those who attended the 1996 Annual Gathering while deliberately avoiding or strictly minimizing any imposition upon the residents of Oregon County.

11. On June 24, 1996, while still at home in St. Louis, Missouri, Park received word from another person attending the 1996 Annual Gathering that law enforcement officers had established a "checkpoint" on Forest Service Road 3173 immediately adjacent to the entry area to the gathering site. Park delayed her departure for the gathering in order to determine if the law enforcement officers were conducting unreasonable searches and seizures as part of their operations. Park was concerned about her personal safety and liberty as a result of her prior experience with and information which she had concerning prior unreasonable searches and seizures resulting from police road blocks at previous Rainbow Family gatherings. She was apprehensive about facing a police road block and about the intrusion into her liberty and privacy which any unreasonable search or seizure would necessarily entail.

12. On June 27, 1996, Park travelled to the 1996 Annual Gathering by automobile and was required to travel along Forest Service Road 3173 in order to reach the gathering site. As she

neared the gathering site at approximately 5:00 a.m., she noticed that two law enforcement vehicles were parked on opposite sides of Forest Service Road 3173 with their emergency lights flashing. A law enforcement officer stopped the automobile Park was in and approached the vehicle along with Officer Dennis Deason of the USFS ("Deason"). Deason apparently recognized Park and made a point of addressing her by name before he saw any papers identifying her. In response to a question from Park, Deason indicated that he did not suspect Park or anyone travelling with her of any violation, but that he was conducting what he described as a "routine DWI check." Deason and the other officer shined their flashlights into the car and thereafter allowed it to proceed. One of the law enforcement vehicles followed the car for nearly a mile as it proceeded toward the gathering site.

13. Upon Park's arrival at the gathering site, she learned from a friend that, on or about June 11, 1996, Officer Bruce Maldonado of the USFS ("Maldonado") had stopped her friend in the MTNF and specifically inquired about Park's whereabouts. At that time, Maldonado expressed his intention to arrest Park on sight even though Park was not yet present in the MTNF and even though Park had not given Maldonado or anyone else any reason to suspect that she had violated any law or committed any offense which would subject her to arrest by Maldonado. Maldonado's unprompted and baseless arrest threat could only have resulted from a desire to unreasonably intimidate Park and those who assemble or associate with her. Upon learning of it, this threat had the natural

effect of heightening Park's apprehension about suffering an unreasonable search or seizure at the police road block which was operating on Forest Service Road 3173.

14. On July 2, 1996, Park left and then returned to the 1996 Annual Gathering site after taking care of some business in a town near the MTNF. While returning to the gathering site by automobile at approximately 11:00 p.m., Park was again required to travel along Forest Service Road 3173, and she again encountered the police road block maintained by the Defendants. At that time, she noticed that several law enforcement vehicles were parked on both sides of the road stopping traffic and that a USFS vehicle had backed up onto and was turning around in the roadway. Four law enforcement officers, including Officer Severson of the USFS ("Severson") and Deputy Murphy of the Oregon County Sheriff's Department ("Murphy"), were in the road stopping passing vehicles. In addition, canine units from the Missouri Highway Patrol were present on the scene. Severson and Murphy stopped and approached the vehicle Park was in, and Severson asked Park to identify herself. When Murphy was asked about a statement which a MTNF official had made promising to remove the police road block, he responded that he believed that that official had "lied" about that matter. Park and her companions were thereafter allowed to pass, and they returned to the gathering site. At all times and in all matters material, Murphy participated in the police road block operations pursuant to orders issued to him, on information and belief, as a result of

the County's agreement with the USFS as referred to in the final sentence of paragraph 8 of this complaint.

15. Prior to attending the 1996 Annual Rainbow Family Gathering, Park attended other annual and regional Rainbow Family gatherings. Beginning in 1986, she attended all or virtually all annual gatherings, and since that time she has attended regional Rainbow Family gatherings, including the Ozark Regional Rainbow Gathering which was held in the MTNF between August 26, and September 4, 1995. At each of these gatherings, Park has assisted in disseminating information concerning the gathering itself, distributed other social and political literature to those who had gathered, and/or gathered with others in the Cathedral of Nature to pray for world peace. At all or almost of the Rainbow Family gatherings which Park has attended, she and many other persons attending the gatherings were subjected to searches and seizures in the form of police road blocks similar to that described in paragraphs 10 through 14 of this complaint. The Defendant USFS, along with State of Missouri and local law enforcement officers, participated in all of these police road blocks, including the one established in connection with the 1995 Ozark Regional Rainbow Gathering described in this paragraph and the one described in paragraphs 10 through 14 of this complaint.

16. Each of the road blocks referred to in paragraph 15 of this complaint has included a requirement that the drivers of stopped vehicles identify themselves and produce their vehicle registration and insurance documents. This practice has contin-

ued despite the fact that the USFS announced in the Federal Register on August 30, 1995 that "it is not necessary or appropriate to search cars entering the Gathering or to verify the driver's car registration, insurance, and license." 60 Fed. Reg. 45266. In any event, each of the police road blocks described in paragraph 15 of this complaint has effected searches and seizures of those who were stopped. Those searches and seizures were unlikely to promote any actual, legitimate law enforcement goals or objectives, and they constituted a serious intrusion upon Park and others who have been stopped, searched and seized temporarily. Furthermore, these police road blocks have been established and maintained at such times and places as to target Park and other persons who attend Rainbow Family gatherings while minimizing or avoiding any intrusion, search, or seizure of persons not connected with such a gathering. Neither Park nor the vast majority of those who have been stopped as the result of the police road block described in paragraph 10 through 14 or in those described in paragraph 15 of this complaint gave any of the Defendants probable cause or any individualized articulable suspicion to believe that she or they had committed any offenses which would justify arrest or questioning.

17. Park fully intends to attend future Rainbow Family Gatherings, including future Ozark Regional Rainbow Gatherings which will be held in the MTNF within this District. It is likely, in particular, that Park and others will gather in the autumn of 1996 and/or the spring of 1997 in the MTNF at the

Oregon County site of the 1996 Annual Gathering in order to monitor the results of their post-gathering site restoration measures and to conduct such further site restoration efforts which may appear necessary. Unless they are first restrained by this Court, the Defendants will again establish and maintain a police road block operation similar to that described in paragraphs 10 through 16 of this complaint whenever there is a Rainbow family gathering of any sort within the MTNF. Thus Park will again face unreasonable searches and seizures by the Defendants as she enters, leaves, and reenters the sites of the future gatherings in the MTNF.

Count I - Injunction Against Search and Seizure

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

18. Unless restrained by this Court, the Defendants will continue to conduct police road block operations during Rainbow Family gatherings in the MTNF in Oregon County and in other Missouri counties within this District, and they will thereby subject Park and many other gathering attendees to a violation of her and their right against unreasonable search and seizure secured to her and them by the Fourth Amendment to the United States Constitution, as made applicable to some of the Defendants by the due process clause of the Fourteenth Amendment thereto. Against such repeated future constitutional violations, Park has no adequate remedy at law and she is entitled to declaratory and injunctive relief establishing the unconstitutionality of and

restraining the Defendants' road blocks as described in paragraphs 10 through 17 of this complaint.

WHEREFORE the Plaintiff respectfully requests that this Court award to her and against each of the Defendants:

- A. A declaratory judgment establishing that the road blocks which the Defendants have erected and maintained and will erect and maintain violate the right of Plaintiff Park 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 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 Mark Twain National Forest in Oregon County or in other Missouri 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. Her reasonable attorneys fees pursuant to Section 2412 of Title 28 of the United States Code and Section 1988 of Title 42 of the United States Code; and
- D. Such other and further relief as this Court may deem just and proper.

Count II - Injunction Against Harassment

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

18. Unless restrained by this Court, the Defendants will continue to conduct police road block operations during Rainbow Family gatherings in the MTNF in Oregon County and in other Missouri counties within this District, and they will thereby subject Plaintiff Park and many other gathering attendees to harassment and intimidation because of their interest in the Rainbow Family and in the gatherings. In addition, the Defendants 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 Park 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 Defendants' past actions in connection with their police road blocks, as described in paragraphs 10 through 15 of this complaint, have succeeded in harassing Park, 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 Defendants will continue to subject Park 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, as made applicable to some of the Defendants by the due process clause of the Fourteenth Amendment thereto, and by the laws of the United States and the administrative regulations of the USFS. Against such repeated future constitutional violations, Park has no adequate remedy at law, and she is entitled to declaratory and injunctive relief establishing the unconstitutionality of and restraining the Defendants' road blocks as described in paragraphs 10 through 17 of this complaint.

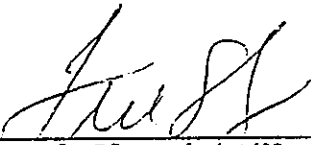
WHEREFORE the Plaintiff respectfully requests that this Court award to her and against each of the Defendants:


- A. A declaratory judgment establishing that the road blocks which the Defendants have erected and maintained and will erect and maintain violate the right of Plaintiff Park and others to 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.
- 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 Mark Twain National

Forest in Oregon County or in other Missouri counties within this District, and from targeting Plaintiff Park or other gathering attendees for harassment or other actions which will chill and deter them from exercising their constitutional and statutory rights within the MTNF;

- C. Her reasonable attorneys fees pursuant to Section 2412 of Title 28 of the United States Code and Section 1988 of Title 42 of the United States Code; and
- D. Such other and further relief as this Court may deem just and proper.

Respectfully submitted,
Tracie Park,

By: 
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Attorney for Plaintiff

By: 
S. Douglas Bonney (No. 36164)
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