ORIGINAL

No. 20-5525

Supreme Court, U.S.
FILED
AUG 21 2020
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

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Larry Bailey, *Petitioner*

v.

United States et, al., *Respondent*

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

PETITION FOR WRIT OF CERTIORARI

Larry R. Bailey
Pro Se Litigant
181 Ben Bailey Road
London KY., 40744
Phone No. (606) 261-4761

RECEIVED
AUG 26 2020
OFFICE OF THE CLERK
SUPREME COURT, U.S.

NOTE TO COURT

I am following the *GUIDE FOR PROSPECTIVE INDIGENT PETITIONERS FOR WRITS OF CERTIORARI* provided by this court. I swear to file this petition to the best of my abilities. I also swear that all legal citations are correct to the best of my abilities. I am using public resources found on the internet and do not have access to any law library or have financial resources to purchase legal material for my brief.

QUESTIONS PRESENTED

(Due to cognitive issues from a previous stroke I am addressing questions in order that they appear in pleadings to limit confusion on my behalf)

1). Whether the District Court erred when it determined that the Secretary of the Interior can charge an amenity fee

2). Whether the District Court erred by lifting its order for planned meeting after both parties had met and fulfilled the order, and it was filed and, if it failed to follow the Appellate Court instructions.

3). Whether the agency wrongfully withheld public records, and agency council acted unethically by withholding evidence used during litigation.

4). Whether the District Court abused its discretion by denying discovery.

5). Whether my argument that the Forest Service must maintain the light regardless of its fee designation should have been consider an amended complaint.

LIST OF PARTIES

Defendants: Tom Vilsack, Secretary of the U.S. Dept. of Agriculture
Tom Tidwell, U.S. Forest Service Chief
Dan Olsen, Forest Supervisor
Jason Nedlo, District Ranger

Plaintiff: Larry Bailey 181 Ben Bailey Road. London Kentucky, 40744.

CORPORATE DISCLOSER STATEMENT

There are no corporations connected to this case. I am a private citizen and the Defendant is a government agency (U.S. Forest Service).

RELATED CASES

There are no relate cases.

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TABLE OF AUTHORITIES

Cases:

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PETITION FOR WRIT

Petitioner Larry Bailey respectfully petitions this court for a writ of certiorari to review the judgements of the United States District Court for the Eastern District in London Kentucky and the 6th Circuit Court of Appeals.

OPINIONS BELOW

Appellate Court ORDER Denying Rehearing (3/24/2020)	Not Published
Appellate Court ORDER Affirming District Court Judgment (2/28/2020)	Not Published
District Court JUDGMENT Dismissing Case (4/30/2019)	Not Published
Appellate Court ORDER Dismissing Appeal (1/17/2019)	Not Published
Appellate Court ORDER Remanding Case to District Court (6/27/2018)	Not Published
District Court ORDER Denying Rehearing (9/26/2017)	Not Published
District Court JUDGMENT Dismissing Case (7/24/2017)	Not Published

JURISDICTION

The judgment of the Appellate Court denying a timely filing for rehearing was entered on March 24, 2020 denying reconsideration of its final judgment. Due to the Covid-19 pandemic the filing deadline was extended to 150 days, (ORDER LIST: 589 U.S.). All judgments from the Appellate Court and District Court correspond to this same case and linked to the last order.

STATEMENT OF THE CASE

Brief History

This case began as a complaint for injunctive relief against the United States Forest Service to replace a safety light and place a picnic table at the boat ramp at Marsh Branch on Laurel Lake in Laurel County Kentucky. The light is part of the boat ramp which is an amenity

that requires a paid fee to access. I paid the fee and made requests for the Forest Service to replace the broken light at the ramp. After I made several requests over the next year and promises from the agency to fix the light were unfulfilled, I filed for an injunction at the Federal District Court for the Eastern District in London Kentucky. The Forest Service fixed the light, but claimed it was not responsible for the light, therefore would not have to replace it when it goes out again.

I argued that it had a legal obligation to maintain the light. The District Court agreed with the agency and dismissed the case, [Appendix G]. I filed for a reconsideration which was denied by the District Court, [Appendix F]. I filed an appeal to the 6th Circuit Appellate Court which remanded the case back to the District Court for further proceedings, [Appendix E]. On remand the District Court issued an order for planned meeting and report [Appendix E, {see order and email agreement}]. After the parties met, the court struck the order and allowed the agency to proceed under the Administrative Procedure Act. I file an appeal questioning whether the District Court correctly followed the Appellate Court's instructions on remand. The Appellate Court dismissed the appeal, [Appendix D].

Following several denials from the District Court for discovery I filed for summary judgment on the light as a separate issue. The motion was denied, and the case was dismissed, [Appendix C].

I filed an appeal which was decided in favor of the District Court, [Appendix B]. I then filed a timely motion to reconsider the light as a separate issue which was denied, [Appendix A].

Statement Of The Case;
Addressing Questions Presented:

1). *Whether the District Court erred when it determined that the Secretary of the Interior can charge an amenity fee when he determines that visitors use a specific amenity.*

The District Court, in its dismissal of my case, ruled that pursuant to 16 U.S.C. § 6802(g), the Secretary of the Interior, has the authority to charge an expanded amenity fee when he determines a visitor uses a specific amenity, saying

> *"Except as limited by subsection (d), the Secretary of the Interior may charge an expanded amenity recreation fee, either in addition to an entrance fee or by itself, at Federal recreational lands and waters under the jurisdiction of the National Park Service or the United States Fish and Wildlife Service when the Secretary of the Interior determines that the visitor uses a specific or specialized facility, equipment, or service."* [Appendix F].

The court also cited *Southern Forest Watch v. Jewell*, No. 3: 13-CV-116, 2015 WL 1457978, at *12 (E.D. Tenn. March 30, 2015) to support its decision. *Southern Forest Watch v. Jewell* is a case involving fees in the Great Smoky Mountains National Park.

The Secretary of Agriculture has authority to determine fees in the National Forest. The Secretary of the Interior has authority to establish fees in the National Parks, *"The term "Secretary" means--**(A)** the Secretary of the Interior, with respect to a Federal land management agency (other than the Forest Service); and **(B)** the Secretary of Agriculture, with respect to the Forest Service."* [16 U.S.C.A. § 6801(10)].

Federal law prohibits the secretary of agriculture from charging visitors to park, or for general access,

> *"(1) Prohibition on fees for certain activities or services, The Secretary shall not charge any standard amenity recreation fee or expanded amenity recreation fee for Federal recreational lands and waters administered by the Bureau of Land Management, the Forest Service, or the Bureau of Reclamation under this chapter for any of the following: (A) Solely for parking, undesignated parking, or picnicking along roads or trailsides. (B) For general access unless specifically authorized under this section."* [16 U.S.C. § 6802(d)].

Congress ordered that admission to the National Forest to be free, [16 U.S.C. § 6802(e)(2)]; [*Scherer v. U.S. Forest Service*, 653 F.3d 1241 (10th Cir. 2011)]. It is also established that the Forest Service cannot charge a fee solely for parking [16 USCA § 6802(d)]; [*Adams v. U.S. Forest Service*, 671 F.3d 1138 (9th Cir. 2012)].

The Forest Service claims that Marsh Branch is classified as an expanded amenity fee site (specifically a highly advanced boat ramp), requiring certain specific amenities not including a light or picnic table, [16 U.S.C. § 6802(g)(B)]. Initially I argued that the site is a standard fee area because the Forest Service charges visitors for hiking, swimming, fishing, and other opportunities for outdoor recreation as defined in the statute detailing a standard amenity fee site, *"**An area**(A) that provides significant opportunities for outdoor recreation"* [16 U.S.C. § 6802(f)(4)].

The Forest Service itself clearly defined what an ***"area"*** is, in relation to the statute, *"a geographic region containing the amenities and attributes listed in REA's nine requirements."* [*Sherer v. U.S. Forest Service*, 727 F.Supp.2d 1080 (D. Colo. 2010)] ; the court agreed with the agency saying, *"The agency's interpretation of the term "area" as defined by amenities and not per site or by some other quantitative measurement is a reasonable interpretation of the statutory provision."* [*id*]. The District Court decision was affirmed by the Circuit Court, [*Sherer v. U.S. Forest* Service, 653 F.3d 1241 (10th Cir. 2011)].

After further investigation I argued that Marsh Branch is both a standard and expanded fee area as defined in 16 U.S.C. § 6802(g)(2). This possibility was affirmed by the Appellate Court, *"it is equally possible that the fee for Marsh Branch is both a standard amenity recreation fee and an expanded recreation fee."* [Appendix E].

2). *Whether the District Court erred by lifting its order for planned meeting after both parties had met and fulfilled the order, and it was filed, and if it failed to follow the Appellate Court instructions.*

The Appellate Court remanded the case back to District Court with instructions for both parties to have an opportunity to develop evidence regarding the fee designation of Marsh Branch. [Appendix E]. On August 22, 2018, the District Court issued an order for planned meeting and report. Pursuant to the order I met with agency's council (Assistant U.S. Attorney Tiffany Fleming) and we made an agreement on terms and conditions. I agreed to the report via email and on September 21, 2018 she electronically filed it in the District Court, [Appendix E, {see order and email response}].

On September 21, 2018 after the report was filed council filed a motion to have the order for meeting and report set aside and allow them to proceed under the Administrative Procedure Act (APA). The District Court granted the request and the report was effectively quashed and allowed the agency to proceed under the APA. I filed several pleadings to have the original order re-instated, but the District Court denied all requests. I argued the order contradicted the Appellate Court instructions to allow the parties an opportunity to develop evidence and that the agency had already filed an AR. In initial pleadings the agency filed the Declaration of Dan Olsen, the Forest Service Handbook, and its Daniel Boone National Forest 2017 Recreation Schedule and Fees.

The District Court admitted its order conflicted with what the Appellate Court instructed saying, *"This limited scope of review seemingly creates conflict with the 6th Circuit's instruction in this case to provide the parties an opportunity to develop evidence about the designation of Marsh Branch."* [Appendix E {see Dist. Crt. Doc#36, Page ID#340}].

I filed an appeal with the 6th Circuit Court of Appeals, Appellate Courts can hear issues from District Courts that pose a controlling question of law, 28 U.S.C.A. § 1291, 1292. The appeal was denied because it was not a final order, [Appendix D].

The District Court determined that the Forest Service had not filed its Administrative Record (AR) in prior pleadings. Therefore, the APA would allow the agency to develop its evidence by filing its Administrative Record. To fulfill my opportunity to develop evidence I would be allowed to file for leave for discovery. I filed several pleadings for discovery, none of which was challenged by the agency, but the District Court denied all of them.

In its order granting the agency's request to vacate the order for meeting and proceed under the APA the District Court provided its own case citation saying, *"Although not specifically referred to in the defendant's motion, authority exists subjecting plaintiff's FLREA claims to the Administrative Procedure Act."* [Appendix D{see Dist. Crt. Doc#36 Page ID#340}]. A court should not assist an agency, *"a court is not to substitute its judgment for that of the agency"* [*Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut....*, 463 U.S. 29 (U.S. 1983)].

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3). *Whether the agency wrongfully withheld public records, and agency council acted unethically during litigation.*

At the meeting agency council advised me that I should make all requests for evidence through her. But after having the order terminated, she advised that she would not be cooperating any further with me regarding evidence. She said I would have to request evidence through the Freedom Of Information Act (FOIA). I filed a FOIA request for records with the Forest Service and that request was denied because I could not afford the $468 cost, [Appendix C,{see email

chain}]. Information regarding who has records as well as copies of records in the possession of the other party are to be provided without a discovery request, FRCP Rule 26. This case was not an action for review on an administrative record, it was a civil complaint. Congress did not intend for fees to be used to deny requests for information, "*and that fees not be used as an obstacle to disclosure of requested information.*" [*Eudey v. Central Intelligence Agency*, 478 F.Supp. 1175 (D.C. Cir. 1979)]., "*fees should not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information*". [*Ettlinger v. F.B.I.*, 596 F.Supp. 867 (D. Mass1984)]., *"fees not be used as an obstacle to disclosure of requested information."* [*Diamond v. F.B.I.*, 548 F.Supp. 1158 (S.D.N.Y 1982)].

During litigation, council cited 5C Wright and Miller Federal Practice and Procedure § 1380 & 1382. I contacted her with a request for a copy of that citation because it is not found in Westlaw or any other reliable database see email attachment. She sent a copy of §1380, but not §1382. She also said that it would be the last time she would provide copies of information she uses and suggested that I purchase the evidence, hire an attorney, or visit a law library, [Appendix C,{see email}].

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4). *Whether the District Court abused its discretion by denying discovery.*

On remand the Appellate Court instructed that the parties would have an opportunity to expand evidence to show the fee designation of Marsh Branch. The District Court decided to allow the Forest Service to file its Administrative Record. To satisfy the instruction allowing me to expand, it said I could supplement the record only if supported by the Administrative Procedure Act. All requests for records were denied by the agency and the District Court denied all motions for discovery.

Under the APA discovery is not generally allowed. When an agency deliberately or negligently withhold records discovery is appropriate, [*Sierra Club v. Slater*, 120 F.3d 623 (6th Cir. 1997)]. In my case the Appellate Court found that the agency failed to provide sufficient records, [Appendix E]. This court, has in its past, said, *"if the reviewing court simply cannot evaluate the challenged agency action on the basis of the record before it, the proper course, except in rare circumstances, is to remand to the agency for additional investigation or explanation."* [*Florida Power & Light Co. v. Lorion*, 470 U.S. 729 (U.S. 1985)]. A District Court's refusal to supplement the record can be an abuse of discretion, *"While this court has not addressed the issue, other courts have held that "a district court's refusal to supplement the administrative record" is akin to "a district court's denial of discovery."* [*Sierra Club v. Slater*].

The District Court allowed the agency to file more records, but those records contained illegible copies of important records and emails. They did not include records pertaining to criminal violations issued to visitors for parking or what fees were used to maintain hiking trails or other amenities not related to a highly advanced boat ramp. The Appellate Court opined that fees have no bearing on the issues to be resolved, [Appendix B]. Fees are to be spent at the specific unit or area, "*Not less than 80 percent of the recreation fees and site-specific agency pass revenues collected at a specific unit or area of a Federal land management agency shall remain available for expenditure, without further appropriation, until expended at that unit or area.*" [16 USCA § 6806(c)(A)]. The use of fees at a specific site or area has limitations that do not include such things not related to the site, [16 USCA § 6807(a)]. The spending of fees is directly related to what type of fee area it is.

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5). *Whether my argument that the Forest Service must maintain the light regardless of its fee*

designation should have been consider an amended complaint.

Early into litigation before the District Court first dismissed the case, I expressed my contention that the light was part of the boat ramp for several years before it became a fee site. First, I argued that the government agency had an implied contractual obligation because the light is a permanently attached part of the boat ramp construction before fees were designated, *"An implied-in-fact contract with the government requires proof of (1) mutuality of intent, (2) consideration, (3) an unambiguous offer and acceptance, and (4) "actual authority" on the part of the government's representative to bind the government in contract."* [*Hanlin v. U.S.*, 316 F.3d 1325 (U.S. 2003)]. However, the District Court ruled that it did not have jurisdiction to consider the argument because it fell under contract law. Later, the Appellate Court did not rule on the District Court's jurisdiction. After remand I discovered the agency's Recreation Fee Program Information (RFPI). That agency record states that fees were used to install solar lights specifically at the Marsh Branch Boat Ramp. I made several comments on the issue as well as mentioned my intention on filing an amended complaint after discoveyr, which was never granted.

On March 14, 2019 I filed a motion for summary judgment on the light issue separate from the picnic table, [Appendix B,{see Dist. Crt. Doc# 65-3}]. I also made the issue clear in my reply, [Appendix B, {see Dist. Crt Doc#75}]. The District Court denied the motion and on appeal the Appellate Court opined that I did not file a formal motion to amend my complaint, therefore the District Court did not abuse its discretion, [Appendix B].

The Forest Service claims it does not have to maintain the light because the statute describing a highly advanced boat ramp does not mention the light as an amenity, *"Use of highly developed boat launches with specialized facilities or services such as mechanical or hydraulic*

boat lifts or facilities, multi-lane paved ramps, paved parking, restrooms and other improvements such as boarding floats, loading ramps, or fish cleaning stations." [U.S.C. § 6802(g)(B)].

REASONS FOR GRANTING THE PETITION

Based On Questions Presented

1). *Whether the District Court erred when it determined that the Secretary of the Interior can charge an amenity fee when he determines that visitors use a specific amenity.*

Legal Importance:

The District Court's claim that the Secretary of the Interior has authority in his matter is clearly erroneous. There is no doubt the opinion creates conflict between the legal authority of the two secretaries, and importantly, the Appellate Court failed to clarify the matter. The District Court cites *Southern Forest Watch v. Jewell* as case law in its opinion, but that case is about recreation fees in the national park, not the national forest. To allow the District Court opinion which is based on the wrong secretary and wrong government agency would undermine congressional intent for admission to the National Forest to be free. If Congress intended for the Forest Service to charge the public for whatever activities it desired, there would be no statutes separating them. The statutes clearly define the differences, and *Adams v. U.S. Forest Service* and *Southern Forest Watch v. Jewell* are miles apart in their legal authority on the issue.

The Forest Service's claim that it is a highly advanced boat ramp while it charges a fee to access the area around it for activities provided under a different statute is directly contradictive to the laws that define fee classification. The Secretary of Agriculture simply cannot charge fees for general access and parking which means that Marsh Branch cannot solely be a highly

advanced boat ramp and legally charge visitors for accessing the general area.

The District Court provided the wrong legal authority to assist the Forest Service's defense.

Public Importance:

The public has a constitutional right enjoy the National Forest at no cost if there is no legal justification to say otherwise. For the government to criminalize taking a walk on a trail or letting children skip rocks across the water is both morally and constitutionally wrong. Charging someone for a crime and levying a fine when they are doing something legal violates their civil rights.

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2). *Whether the District Court erred by lifting its order for planned meeting after both parties had met and fulfilled the order, and it was filed, and if it failed to follow the Appellate Court instructions.*

Legal Importance:

An important question exists of whether the District Court correctly followed the instructions of the Appellate Court. I have not found any direct authority that is on point with this particular issue. Neither the District Court, Appellate Court, nor agency council, cites any law allowing an order for meeting and report to be lifted after the parties have met and exchanged important information.

The decision resulted in my being totally denied discovery, even after the court's rationale that its decision appeased the Appellate Court instructions that I could expand evidence. Therefore, the District Court failed to correctly follow the higher court order.

The Forest Service filed part of its AR the first time the case was before the District

Court, but it was insufficient. Initially the agency filed an AR (Declaration of Dan Olsen, the Forest Service Handbook, and its Daniel Boone National Forest 2017 Recreation Schedule and Fees). The AR is no less the AR because it is not labeled as so. However, the District Court allowed the agency to reset its case and submit more evidence under the APA and then deny my ability to expand evidence through the same law.

What did the Appellate Court mean by its instructions?

Public Importance:

This is a *"slippery slope"* issue, especially for pro se litigants. To allow the government to gather evidence though a court order without giving any in return, and then nullify the order is dangerous. If this court legitimizes that behavior it could become an effective tool for government agencies to take advantage of anyone representing him/herself. Court orders should never become a tool to advance one party at the expense of another. When a party signs or files a paper with the court it must not be used to cause harm to the other party, [FRCP Rule 11]. The rule does not specify whether the harm must be intentional or incidental.

During the meeting I made admissions to council that I was glad to have the meeting because I have cognitive disabilities from a stroke and was already having problems litigating the case. I specifically said that I did not know if I could have completed the process without the meeting. I revealed everything about my strategy and my weaknesses. I informed her that the Forest Service was refusing to provide public records about Marsh Branch which I had requested. She then informed me that would have to request evidence directly from her in the future. I passionately believed the meeting was legitimate and ethical.

Allowing the government to use a court order to advance its case in this manner will lead to public harm in future cases. Furthermore, allowing the government to submit evidence as

needed throughout a case and forbid the other party to gather its evidence gives the government an unfair and unjust advantage.

This court should not afford a District Court helping an agency with proper authority to help advance its case as it did by citing *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut....* , then refuse to accept pleadings made by a pro se litigant.

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3). *Whether the agency wrongfully withheld public records and agency council acted unethically by withholding evidence used during litigation.*

Legal Importance:

If the agency had released the records, there would have been no need for discovery because all records related to the case are in the possession of the agency. The agency never provided any reason other than payment for its refusal to release the evidence. Appellate Courts in other circuits have determined that fee should not be used to deny releasing records. The records were important to show the Forest Service operates Marsh Branch as a standard/expanded fee site by spending revenue on amenities associated to both designations and issuing criminal violations to visitors who do not use the boat ramp or its amenities.

I cannot find legal authority to argue that council broke a rule of law by not providing copies of inaccessible material used in pleading in District Court. It is however a rule to provide that material in the Appellate Court, [CTA6 Rule 32.1].

Public Importance:

Allowing government agencies to use fees to deny records in civil cases will be prejudice to indigent litigants. It draws a line between those who file impoverish and those who have the financial resources to buy evidence. This is especially true when the agency has those records in

their possession and does not cite any other reason for denial.

Allowing a U.S. Attorney to use authority in a pleading that is unavailable in the public domain without giving a copy to the pro-se party is another *"slippery slope"* issue. Someone with vast resources like the government could complicate a case with legal documents that the pro se would never find. It is especially true when those resources are paid for with public money.

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4). *Whether the District Court abused its discretion by denying discovery.*

Legal Importance:

By denying discovery after terminating the planned meeting and report the District Court abused its discretion. In effect it nullified the Appellate Court's decision. When a District Court understands that its decision is conflicting with a higher court order it should take all steps possible to ensure that both parties are treated fairly.

The Appellate Court's opinion that fees are not relevant to the issue on remand is incorrect. If congress intended for fees to be spent on anything the agency chooses it would not have used language such as *"shall be used only for"* [16 USCA § 6807(a)(3)].

A highly advanced boat ramp has specific amenities and congress intended for those fees to be spent on those units. If the agency is spending fee revenue on the area around the boat ramp it is operating as a standard fee area. Otherwise it can operate contrarily to what congress said. This question has not been answered and is relevant to the true designation of Marsh Branch.

Public Importance:

It is important that future litigants are not denied discovery by a District Court after a higher court has recognized and decided that further discovery is needed. This is especially important to other pro se litigants.

It is also important to the public that their fee money is spent correctly. If they pay for specific amenities their money should be spent on those amenities. If their money pays for a light at the ramp, then that light should be maintained.

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5). *Whether my argument that the Forest Service must maintain the light regardless of its fee designation should have been consider an amended complaint.*

Legal Importance:

A formal amended complaint does not have to be filed as an amended complaint, *"Issues, which are not raised by the pleadings, but which are tried by parties' express or implied consent, shall be treated as if they had been raised in the pleadings,"* *Hasselbrink v. Speelman*, 246 F.2d 34 (6th Cir. 1957)]; *"Fed.R.Civ.Pro. 15(b) states that issues tried by the express or implied consent of the parties shall be treated in all respects as if they had been raised in the pleadings."* [*Carlyle v. U.S., Dept. of the Army*, 674 F.2d 554 (6th Cir. 1982)],

> *"F.R. 15(b) provides that 'when issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings.' This is mandatory, not merely permissive. The rule then provides for free or delayed amendment, but states that 'failure so to amend does not affect the result of the trial of these issues.' Indeed, formal amendment is needed only when evidence is objected to at trial as not within the scope of the pleadings."* [*Securities and Exchange Commission v. Rapp*, 304 F.2d 786 (2nd Cir. 1962)].
>
> *"It is too late in the day and entirely contrary to the spirit of the Federal Rules of Civil Procedure for decisions on the merits to be avoided on the basis of such mere technicalities. 'The Federal Rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.'"* [*Foman v. Davis*, 371 U.S. 178 (U.S. 1962)].

This issue raises another serious legal question. Does the lack of specific language in 16 USCA § 6802(g)(B) to maintain a safety feature relieve the agency from any obligation to do so?

If it does, the rule will apply to other statutes as well. Safety cables holding the floats would not have to be replaced. Smoke detectors in government facilities would not have to be replaced. Flotation devises on their rental boats would not have to be replaced. The possibilities are numerous.

The light is and has been a permanent part of the boat ramp since its construction. It is needed to safely launch and retrieve boats in the dark. That is exactly why it was built onto the ramp. It is not an amenity because it is already part of an amenity; the ramp itself. To allow the Forest Service to disregard its obligation to maintain safety because a statute does not expressly mention it presents a dangerous precedent.

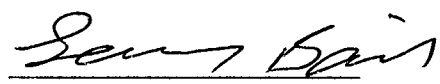
It would be utterly ridiculous to think that congress left out specific language to replace safety devises that are attached to amenity items because it did not think the agency should maintain them. They could not have foreseen any agency making such a preposterous claim.

Public Importance:

Public safety is at risk if this court allows the government to neglect its responsibility to safety because no specific statute exists to require otherwise.

CONCLUSION

Based on the aforementioned questions of law, their legal significance, and public importance, this court should comment and remand the case back to the lower courts for further consideration.



Submitted by Larry Bailey
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