



CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

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CJCL briefs defend Cuban pastor and church, oppose federal ‘sovereign immunity’ claims

LAS VEGAS — The Center for Justice and Constitutional Litigation at the Nevada Policy Research Institute has filed two oppositions to motions filed by the federal government claiming sovereign immunity against claims brought by Ministerio Roco Solida Church (Solid Rock Church).

Solid Rock’s suit seeks restoration of the church’s vested water rights and restitution from the federal government for negligent and lawless actions by the U.S. Fish and Wildlife Service that caused more than \$86,000 in damage to the church’s camp.

The camp, Patch of Heaven in the Amargosa Valley, suffered significant damage in 2010 when the U.S. Fish and Wildlife Service recklessly and illegally rerouted a stream that has historically flowed through Patch of Heaven and was used for baptisms. Less than three weeks after being rerouted, the stream overflowed the federal agency’s poorly engineered new banks during rain showers — sending destructive flooding of mud and muddy waters through the camp.

“Instead of owning up to their ham-handed attempts to commandeer the baptismal waters of a church camp, government officials are now claiming they are like kings and have ‘sovereign immunity’ from wrongdoings,” said Joseph Becker, chief legal officer and director of CJCL.

“The idea that an aggrieved citizen should not be able to seek legal redress against a government violating its own constitution is outrageous and shows how far above the law some government officials see themselves. In a constitutional republic, the people are sovereign.

“Fortunately, there is ample legal precedent that the court has jurisdiction over the named defendants in cases like this one.”

Ironically, Victor Fuentes had come to the United States to escape oppression from another government that claims “sovereign immunity.” In 1991, he swam seven miles from near his home in Santiago, Cuba, to Guantanamo Bay and gained political asylum.

“I am an immigrant from Cuba who risked death to escape Castro’s regime, only now I am in a country overrun by a federal government that reminds me of the horrors from which I fled,” said Fuentes. “In Cuba, I had this beautiful image of America as a place of freedom and liberty, but after the U.S. Fish and Wildlife Service recklessly damaged our property through its irresponsible actions, that image has changed.”

CJCL also just filed an opposition to the government’s motion to delay discovery in the case.

“The government is trying to put Solid Rock between itself and a hard place by claiming that the initial complaint isn’t factually detailed enough and, at the same time, attempting to delay discovery, which would prevent us from discovering the additional factual details they allege are necessary to make out a Complaint,” said Becker.

“Instead of playing legal games, the U.S. Fish and Wildlife Service should return the church’s baptismal waters and immediately issue a check to the Ministerio Roco Solida Church to compensate the church for the damage it caused by its negligent actions,” said Becker.

“What’s happened at Patch of Heaven is the sort of tyrannical actions that occur when a government agency — in this case the U.S. Fish and Wildlife Service — not only makes and administers the rules, but then adjudicates the resultant disputes. These legal shenanigans show the agency will not hold itself accountable, so it’s time for a federal court to do so.”

The lawsuit follows a legally required six-month wait by the church and CJCL for a response to their claim against the U.S. Fish and Wildlife Service for the over-\$86,000 in damages that the agency’s negligence caused. The federal agency never even acknowledged receipt of the claim, much less its responsibility.

The Center for Justice and Constitutional Litigation is a public-interest law organization that litigates when necessary to protect the fundamental rights of individuals as set forth in the state and federal constitutions.

CJCL’s Opposition to Defendants’ Motion to Dismiss U.S. Fish and Wildlife Service and Sharon McKelvey in her Official Capacity in *Ministerio Roca Solida v. United States Fish and Wildlife Service, et al.* is available at <http://justice.npri.org/assets/cases/2012/12/SOLID-ROCK-OPPOSITION-USFW-AND-MCKELVEY-FINAL.pdf>.

CJCL’s Opposition to Defendant’s Motion to Dismiss Sharon McKelvey in her Individual Capacity is available at <http://justice.npri.org/assets/cases/2012/12/SOLID-ROCK-OPPOSITION-TO-MCKELVEY-FINAL.pdf>.

CJCL’s Opposition to Defendants’ Motion to Stay Discovery is available at <http://justice.npri.org/assets/cases/2012/12/SOLID-ROCK-OPPOSITION-TO-STAY-DISCOVERY.pdf>.

CJCL’s First Amended Complaint for Declaratory and Injunctive Relief, Relief under Federal Tort Claims Act, and Other Relief is available at <http://justice.npri.org/assets/cases/2012/12/SOLID-ROCK-FIRST-AMENDED-COMPLAINT-FINAL.pdf>.

Learn more about this case at <http://justice.npri.org/cases/justice-for-victor-fuentes/>.

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