

From: Cassidy, Keith (Allen) [Keith_Cassidy@allen.senate.gov]
Sent: Thursday, January 05, 2006 4:20 PM
To: Dave *****
Subject: RE: DOI update on the VCDL petition

Dave,

I think your assessment is both reasoned and appropriate. I think a memo mandating proper notice along points of ingress to parks should be within the purview of Assistant Sec. Hoffman and certainly would be a sign of good faith. It simply forces them to live up to the standard provided by the regulation, as interpreted by the 4th Circuit in their due process analysis. I would guess he would have to run it through his people in the OGC at DOI to insure it doesn't overstep his authority, although on its face it doesn't appear that it would. As I mentioned the other day and Mr. Hoffman echoed you don't want to take any steps that in the long run would make the final goal more difficult. I certainly think it is a good sign that Mr. Hoffman is taking the time to deal with you personally; that in itself is usually more than half of the battle. Appreciate you keeping me updated on your progress.

Keith

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-----Original Message-----

From: Dave ***** [mailto:dave@bighammer.net]
Sent: Thursday, January 05, 2006 3:57 PM
To: Cassidy, Keith (Allen)
Subject: FW: DOI update on the VCDL petition

Hello Keith,

I spoke to Mr. Hoffman today, and I think it went well. I think we're very close with regard to how this petition should be handled. There are 2 things I believe we need to follow up on.

1st, I believe you suggested that we should have an agreement in writing with DOI to address this petition - fully reviewed and to be published for comment, implementation etc. after the November '06 elections, and in any event before 2007. He was not clear on how to address this. I suspect a letter requesting that DOI make this commitment would address the issue. I know that US Representative Chris Cannon has similar concerns.

Our only real "disagreement" - an amicable one - was the time frame. I get the impression from Mr. Hoffman he agrees that the petition makes for Good common sense changes.

I sent the email below to Chris Lopez from Representative Tom Davis's office. I asked Mr. Hoffman for some form of concession here while they review the petition some more. He sounded sympathetic, but pointed out that suggestions I'd made would also require regulation changes.

I think my suggestion to Chris below wouldn't need a regulation change, would leave the rule intact until they complete review, not violate any

laws, or other regulations and address one of the main issues that our petition addresses - prosecution for weapons violations in un-posted areas.

Most parks, parkways, etc. have limited, if any posting of a National Park border, and that weapons are prohibited.

I think that if they were to issue a memo reminding the parks that there needs to be posting of both National Park boundary AND weapons prohibited for a conviction, and that such posting should be at the park entrances, that might help allay the concerns of some of the petitioners that they might become "victims" of the justice system.

The Department or NPS does have the legal authority to 'interpret' their rules and the notice of the prohibition should be within their scope, and strike a reasonable balance.

What are your thoughts?

Again, thanks for your help!

-----Original Message-----

From: Lopez, Chris [mailto:Chris.Lopez@mail.house.gov]
Sent: Thursday, January 05, 2006 3:21 PM
To: 'Dave *****'
Subject: RE: DOI update on the VCDL petition

Thanks David.

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---Acta Non Verba---

"Deeds Not Words"

-----Original Message-----

From: Dave ***** [mailto:Dave@bighammer.net]
Sent: Thursday, January 05, 2006 2:21 PM
To: Lopez, Chris
Subject: DOI update on the VCDL petition

Chris,

I spoke with Mr. Hoffman today. We reviewed the reasons we submitted The petition, asked about the time table and subsequently to see if they Would be willing to offer some sort of concessions while they were still Holding the petition for review.

We found ourselves agreeing far more often than not. They still would Like to wait until after the '06 elections, and everything I suggested to Mr. Hoffman in the interim would require a similar regulation change. He

rightly pointed out that it could have the effect of undercutting our petition.

One thing that occurred to me after speaking with him might be worth considering. In the 4th US Appeals court decision Lofton vs. US, the court upheld a weapons conviction in Oxon Hill Park. Lofton was hunting, and the appeals court held that the minimum standard for notice of a (weapons or hunting) prohibition was a posting on the parks bulletin board. They went on to say that wasn't the only sufficient notice.

This "lack of notice" is a big concern of the petitioners, and a serious Due process issue. You don't know where the park boundaries are most of the time, AND you don't necessarily know that your otherwise lawful handgun, carried with the auspices of your lawfully issued state permit, now puts you in legal jeopardy which could cost you a lot of money, your freedom, your job, your security clearance, etc.

I think that the Department, and NPS could show a measure of good faith By memo stating that the current weapons, traps and nets regulation, CFR 36, 2.4 is under review. Enforcement should continue while this review is underway, however, Law Enforcement should recognize that if there is no clear posting at the park entrances that people are 1: entering a National Park and 2: Weapons are prohibited, posted by clear, and obvious Signage then no arrest should take place. The person should be warned, and Advised to secure them in what would be a lawful manner under the current regulation.

I believe this would be consistent with the current Parks regulations And case law, and could keep otherwise innocent and law abiding folks from becoming a victim of the legal system, allow DOI to maintain their hunting regulations, no shooting rules, etc. in an unposted area.

Off limits Government buildings are all clearly posted, and the law Clearly indicates that you cannot be convicted without that posting. I believe That a memo to enforce regulation 2.4, but not to arrest for weapons Violations absent a clearly posted area - either at the entrances, or at specific areas like where endangered species might be, etc.

Let me know what you think, this might "address" one of the primary petitioner concerns in the interim while the Department finishes up their review.

Thanks again,

Dave *****