

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 03-5013

September Term, 2003

02cv02105

Filed On: September 11, 2003

[771602]

Brenda Robertson Fine and Chyann Fine Bratcher,
Appellants

v.

Fran B. Mainella, Director, National Park Service,
Department of the Interior,
Appellee

APPEAL FROM THE UNITED STATES DISTRICT FOR THE DISTRICT OF COLUMBIA

BEFORE: Sentelle, Tatel, and Roberts, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the brief filed by appellants. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the district court's judgment be affirmed. A writ of mandamus is available to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff. See 28 U.S.C. § 1361. Mandamus is appropriate where a public official has violated a "ministerial" duty which is "so plainly prescribed as to be free from doubt and equivalent to a positive command." Consolidated Edison Co. of New York, Inc. v. Ashcroft, 286 F.3d 600, 605 (D.C. Cir. 2002) (quoting Wilbur v. United States, 281 U.S. 206, 218-19 (1929)). The party seeking mandamus relief carries the heavy burden of showing that he has no other adequate means to attain the relief he desires and that his entitlement to such relief is clear and indisputable. Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Here, appellants have failed to meet their burden of establishing that appellee had a duty to retract or nullify the designation of Lake Meredith as a federal park.

Pursuant to D.C. Cir. Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

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Per Curiam