

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) CASE NOS: CR 14-00667-RGK
) (14-tk-0412-PLA)
Plaintiff,)
) CC84 1060412
vs.) CC84 1060413
) CC84 1060414
JOHN C. SEARS,)
) Los Angeles, California
Defendant.) Thursday, November 6, 2014

 (9:05 a.m. to 10:43 a.m.)

CVB TRIAL

BEFORE THE HONORABLE PAUL L. ABRAMS,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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1 Los Angeles, California; Thursday, November 6, 2014; 9:05 a.m.

2 (Call to Order)

3 **THE CLERK:** Calling *United States of America versus*
4 *John C. Sears*, Case Numbers 1060412, 1060413, and 1060414.

5 **THE COURT:** All right, Mr. Sears, why don't you have
6 a seat at the table here for now, okay? All right, I'm going
7 to start off by asking the parties to what's called make your
8 appearances, okay? So for the Government, who's appearing?

9 **MS. MANI:** Good morning, your Honor, Nathani Mani
10 (phonetic) for the Government.

11 **THE COURT:** All right, good morning. And, Mr. Sears,
12 can you just state your name for the record, please?

13 **MR. SEARS:** John C. Sears.

14 **THE COURT:** All right, good morning, Mr. Sears.

15 **MR. SEARS:** Good morning.

16 **THE COURT:** All right, we're here for a trial on I
17 guess it's three Central Violation Bureau citations that are
18 listed. Do you have the copy of this exhibit book, Mr. Sears?
19 Do you have the book at least? We're recording these
20 statements, so I need you to respond so that it gets recorded,
21 okay? So do you have a copy of that book, Mr. Sears?

22 **MR. SEARS:** I believe this is it, isn't it?

23 **THE COURT:** Yeah, that's the same -- that's the one
24 that I have it looks like. Okay, thank you.

25 **MR. SEARS:** All right, I have a copy.

1 **THE COURT:** Okay, thank you. So we have three
2 citations that have been issued. Mr. Sears, let me just
3 verify, you've seen or received these three citations?

4 **MR. SEARS:** Yes.

5 **THE COURT:** Okay, and do you understand what they're
6 saying you did? I'm not asking if it's true. You understand,
7 though, what they've charged you with, right?

8 **MR. SEARS:** Illegal camping --

9 **THE COURT:** You don't have to tell me. Do you just
10 understand -- did you understand what --

11 **MR. SEARS:** Well, I'm kind of going over it to make
12 sure I do understand.

13 **THE COURT:** Okay, I appreciate that. That's good.

14 **MR. SEARS:** Illegal camping, camping in an
15 undesignated spot for that activity, and then not obeying a
16 federal employee, and then having an animal tied to a tree.

17 **THE COURT:** Okay. Does the Government have a motion
18 with respect to the third citation?

19 **MS. MANI:** Yes, your Honor, we move to dismiss
20 Citation Number 1060414.

21 **THE COURT:** And that's the one concerning tying a
22 pack animal to a tree?

23 **MS. MANI:** Yes.

24 **THE COURT:** Mr. Sears, I assume you have no problem
25 with them dismissing that.

1 **MR. SEARS:** No, no problem.

2 **THE COURT:** Okay, so that citation is hereby
3 dismissed, thank you. All right, so what we're going to do --
4 let me just ask you, Mr. Sears, are you ready to proceed for --
5 to trial?

6 **MR. SEARS:** Yes, sir.

7 **THE COURT:** Okay, great, thank you. I'm going to ask
8 the Government attorney to call -- no, I'm sorry, I'm going to
9 give you each a chance to make an opening statement. So -- I'm
10 sorry, the trial memo did not include the intern's name. Can
11 you just spell your first and last name for the record,
12 counsel?

13 **MS. MANI:** M as in Mary, A, N as in Nancy, I.

14 **THE COURT:** Okay, I mean, I know I approved it.
15 M-A-N-I, Mani, okay. All right, Ms. Mani, you have a brief
16 opening statement?

17 **MS. MANI:** Can we waive the --

18 **THE COURT:** Oh, you can waive, of course. Yes, you
19 don't have to give an opening statement. Mr. Sears, do you
20 want to give an opening statement? The Government has waived.
21 They decided not to make one. They want to go right to the
22 evidence. Do you want to give an opening statement?

23 **MR. SEARS:** Okay --

24 **THE COURT:** If --

25 **MR. SEARS:** -- it will be in the context -- if I give

1 one, it will be in the context of why I got to where I got and
2 why this whole thing is -- the circumstance by which I was
3 engaged in that got me into this place.

4 **THE COURT:** Okay, well, you certainly if you want to
5 make a statement like that now or if you want to wait until
6 after the evidence and make your statement, you could do that,
7 either way.

8 **MR. SEARS:** Well, can you do it both times?

9 **THE COURT:** Sure.

10 **MR. SEARS:** Okay, then --

11 **THE COURT:** Okay.

12 **MR. SEARS:** -- I'll start it out.

13 **THE COURT:** Okay, so I'm going to ask you to go to
14 the podium.

15 **MR. SEARS:** Okay.

16 **THE COURT:** Okay, and speak from there. And, again,
17 what I want you to concentrate on, this is a brief statement,
18 just so you can -- a minute or two, okay?

19 **MR. SEARS:** Okay.

20 **THE COURT:** And just tell me what you think the
21 evidence will show. Okay, what you think either the
22 Government's evidence or your evidence will show me, okay?

23 **MR. SEARS:** Okay.

24 **THE COURT:** Go ahead.

25 **MR. SEARS:** The evidence will show that we were

1 walking down the road, we'd been walking all day long. We'd
2 probably walked about 15 to 20 miles. It was time to stop.
3 The animals needed to stop for the day and so did myself. The
4 bones and the ligaments and the joints need to rest after
5 walking all day, so we were seeking a place to go to sleep. We
6 did not plan to go there. We didn't even know it was there.
7 We just stumbled upon an open area. It looked good, it looked
8 -- wasn't signed no trespassing or no entry or anything like
9 that. The fence was down. It had been down for a long time.
10 We entered that property, we put our stuff down, and I fixed my
11 dinner and we stayed there for the night. We were woken up at
12 10:00 o'clock at night, told to get off or go to jail. We
13 said, no, it's not safe to leave, it's dark and there's no
14 place to go, so then we chose not to leave and we were taken to
15 jail. And we find -- and that's how -- what led us to this
16 place where I'm talking to you, sir, right now.

17 **THE COURT:** Great, well, thank you very much.

18 **MR. SEARS:** Okay.

19 **THE COURT:** All right, so I'm going to ask the --
20 okay, I'm going to ask the Government to present its first
21 witness then. Mr. Sears, I should have asked you this before.
22 Do you have any witnesses sitting in the courtroom right now?

23 **MR. SEARS:** Yes, sir.

24 **THE COURT:** Okay, I'm going to ask that they all
25 leave then for now, okay? So any witnesses or potential

1 witnesses for Mr. Sears, I'm going to ask you to step out into
2 the hallway, okay? I'm sorry? And is that gentleman who
3 stepped out the only potential witness you have, sir?

4 **MR. SEARS:** Yes.

5 **THE COURT:** Okay, thank you. Ms. Mani, you can call
6 your first witness.

7 **MS. MANI:** Yes, your Honor. The Government calls
8 Coby Bishop as the first witness.

9 **THE COURT:** All right.

10 **MR. SEARS:** Could I get a pen?

11 **THE CLERK:** Sure.

12 **COBY BISHOP, GOVERNMENT'S WITNESS, SWORN**

13 **THE CLERK:** State your name for the record, spelling
14 your last name, please.

15 **THE WITNESS:** My name is Coby Bishop, last name
16 B-I-S-H-O-P.

17 **THE CLERK:** Thank you.

18 **THE COURT:** Counsel, go ahead.

19 **MS. MANI:** Thank you, your Honor. Good morning,
20 Mr. Bishop.

21 **THE WITNESS:** Good morning.

22 **DIRECT EXAMINATION**

23 **BY MS. MANI:**

24 Q Mr. Bishop, what is your occupation?

25 A I am a supervisory park ranger with the National Park

1 Service.

2 Q And how long have you been a supervisory park ranger?

3 A I've been a supervisory ranger for two years.

4 Q How long have you been a law enforcement ranger?

5 A I've been a law enforcement officer with the National Park
6 Service for 12 years.

7 Q And what area do you work in?

8 A I work at Santa Monica Mountains National Recreation Area.

9 Q And what are your duties as a supervisory park ranger?

10 A I supervise approximately six field rangers and also
11 enforce the laws of those rangers, and that is Central
12 Violations Bureau -- pardon me, CFR violations, which would be
13 Code of Federal Regulations 36, and some state laws which would
14 be California Motor Vehicle Code, and also Fish and Game laws.

15 Q Thank you. Now, Ranger Bishop, directing you to the night
16 of May 9th, where were you?

17 A I was on patrol in Santa Monica Mountains National
18 Recreation Area with Ranger Michael Alanji (phonetic) and we
19 were closing gates.

20 Q Closing. Did you receive any calls from dispatch on that
21 night?

22 A I did. I received a call from Angeles dispatch advising
23 me about a call from a park resident.

24 Q And what was the content of that call?

25 A We have a park ranger that lives at Rancho Sierra Vista.

1 It's our western most parcel of property in the Santa Monica
2 Mountains. He is our horse coordinator and also a law
3 enforcement officer. He advised that there was a horse that
4 was roaming unattended near the administrative road just below
5 his home.

6 Q And when you received this call, what did you do?

7 A Alanji and I were already very close to the coast. We had
8 two gates to secure for the evening. We secured those two
9 gates and then immediately responded to Rancho Sierra Vista.

10 Q And how long did it take you to respond to that area?

11 A Approximately one hour.

12 Q In what area is the Rancho Sierra Vista Park located in?

13 A Rancho Sierra Vista is a piece of Santa Monica Mountains
14 National Recreational Area, it's a federal property which is in
15 Newberry Park. As I said, it's our western most piece of
16 property.

17 Q Once you arrived at the area, what happened? What did you
18 do?

19 A We responded to the administrative road area, which was
20 the area in which Chelco (phonetic) described the loose horse,
21 and we drove into the administrative road and found a -- Alanji
22 and I exited our vehicle, found a single loose horse, which was
23 a mule, walking about unrestrained. And at the same time, we
24 found another mule which was secured by a rope to a piece of
25 vegetation, a tree, I believe it was there.

1 Q Is there anything else that you observed in the area?

2 A We did. As we moved around, we noticed quite a bit of
3 equipment which was some saddle bags, some hard saddle bags,
4 and various other camping equipment. And ultimately within
5 just a few feet we found Mr. Sears asleep in a sleeping bag on
6 the ground.

7 Q If you saw Mr. Sears again, would you recognize him?

8 A Yes, I would.

9 Q Do you see him in the court today?

10 A Yes, I do.

11 Q Please tell the Court where the man is sitting.

12 A Mr. Sears is seated just here.

13 Q And can you describe an article of clothing --

14 **THE COURT:** The record reflects that he's identified
15 the Defendant, Mr. Sears.

16 **MS. MANI:** Thank you, your Honor.

17 **BY MS. MANI:**

18 Q Ranger Bishop, let me direct you to the exhibits that I
19 have in front of you right there.

20 A Okay.

21 **MS. MANI:** Your Honor, these are the exhibits that
22 have been previously marked 1 through 5.

23 Q Ranger Bishop, can you turn to Exhibit 1, please?

24 A Yes.

25 Q Do you recognize this photo?

1 A Yes, that is the sleeping bag --

2 **THE COURT:** Wait, before you describe what's in it,
3 let's establish more of a foundation before he testifies what's
4 in the photograph.

5 Q How do you recognize this photo?

6 A I recognize this photo as that which I saw on May the 9th,
7 2014.

8 Q Is this a fair and accurate depiction of what you saw on
9 that night?

10 A That is a photograph that I took, yes.

11 Q And can you describe this photo for us, please?

12 A Yes. It is a blue and red sleeping bag on top of a foam
13 pad or some type of padding and a flashlight adjacent to it.

14 Q Thank you. Can you turn to Exhibit 2?

15 A Yes.

16 Q How do you recognize this photo?

17 A This is a photo I took the same evening, May the 9th.

18 Q And it's a fair and accurate depiction of what you saw
19 that night?

20 A That is, yes.

21 Q Can you describe this photo for us?

22 A Yes. It is the saddle bags which I saw adjacent to
23 Mr. Sears as he slept, and also various articles of tack or
24 equestrian equipment, ropes and leather gear, etcetera.

25 Q Thank you. Would you please turn to Exhibit 3?

1 A Yes.

2 Q How do you recognize this photo?

3 A This is a photo that I took the evening of May the 9th as
4 well.

5 Q Is this a fair and accurate depiction of what you saw that
6 night?

7 A Yes, it is.

8 Q And can you describe this for me, please?

9 A This is a photo of some other tack gear that was adjacent
10 to Mr. Sears as he slept on the ground, and also some water
11 bottles or some food items in addition to some saddle bags.

12 Q Would you please turn to Exhibit 4?

13 A Yes.

14 Q How do you recognize this photo?

15 A I took this photo May the 9th, that same evening.

16 Q And it's a fair and accurate depiction of what you saw
17 that night?

18 A Yes, it is.

19 Q Can you describe this photo, please?

20 A Yes. This is adjacent to Mr. Sears. I found this item
21 which is an open burner stove, I believe it's a gas stove, and
22 it has a bowl and spoon above it on a plate that was heated by
23 it.

24 Q Thank you, Ranger Bishop. After you observed all this
25 tack and gear in the surrounding area, what did you do next?

1 A Alanji and I approached Mr. Sears and we woke him and
2 announced that we were park rangers and asked him why he was
3 there. And he advised that he was camping there for the
4 evening.

5 Q And what did you --

6 **MR. SEARS:** Do I have a right to object or something?

7 **THE COURT:** Sure. And what is the basis of the
8 objection?

9 **MR. SEARS:** Camping.

10 **THE COURT:** Okay, that --

11 **MR. SEARS:** I never said I was camping.

12 **THE COURT:** Okay, that you can ask him questions
13 about. You can't object to his answers but you can object more
14 to the type of question. Okay, but you can explore this on
15 cross examination, okay? Go ahead, I'm sorry.

16 **BY MS. MANI:**

17 Q And after he told you this, what did you do next?

18 A We had Mr. Sears get up out of his sleeping bag. We
19 couldn't see his hands, simply his head sticking out of the
20 sleeping bag. So we had him sit up and exit the sleeping bag.
21 We wanted to make sure that he didn't have any weapons secured
22 in his sleeping bag. Asked him why he was there and from where
23 he had come, and he advised that he had just come in just
24 before dark and that he was staying there that evening. And he
25 -- we told him he was not allowed to be there and that he had

1 to move to another location to camp.

2 Q And when you asked him to move to another location to
3 camp, how did Mr. Sears respond?

4 A He became very agitated and moved his hands about and
5 started to pace. And we had not searched Mr. Sears to see if
6 he had any weapons, or even the immediate area to see if there
7 are weapons, so we detained him using handcuffs and seated him
8 on one of the saddle bags.

9 Q And once you detained him and seated him on a saddle bag,
10 what did you do next?

11 A Upon being detained, we searched his area accessible to
12 hands immediately for weapons, and we also patted him down to
13 make sure he did not have any other items that could harm us.
14 And then we proceeded to seat him on the saddle bags there.

15 Q Did you do anything else to get Mr. Sears to cooperate
16 with leaving the area?

17 A We asked him -- well, we advised him that it was an area
18 that was not allowed for him to stay overnight and that he
19 could move to another location if he would like to spend the
20 evening. But he adamantly denied and -- I believe he said,
21 "I'm a traveler and wherever I lay my head, that's where I'm
22 going to sleep that evening."

23 Q Is there anything else that you did to get Mr. Sears to
24 comply with leaving?

25 A I did. As Alanji stayed with Mr. Sears, I walked away a

1 distance and called a State Park ranger who's a supervisor and
2 asked him if he had any experience with Mr. Sears. He advised
3 that he had seen him before but he had not contacted him, and I
4 asked him if an option would be for Mr. Sears to go to another
5 location which would be on State Park property. It's Danielson
6 Ranch, just south of our location.

7 Q And did Mr. Sears agree to go to Danielson Ranch?

8 A He did not.

9 Q How did Sears respond?

10 A He was adamant that he was not leaving the area he was at.
11 He was staying the night there.

12 Q Ranger Bishop, is there any potential hazards that
13 Mr. Sears could have caused to the park resources?

14 A Yes. The area Mr. Sears was that evening experienced a
15 fire a previous year, it was the springs fire, Rancho Sierra
16 Vista burned. And Mr. Sears's presence there with an open
17 burner did concern us that that could possibly start another
18 fire.

19 Q And were there any special restrictions because of that?

20 A There were restrictions set up by the superintendent in
21 addition to the superintendent's compendium, which did not
22 allow cross-country travel due to the damage done by the fire
23 and the hazards presented by the fire.

24 Q Thank you. And were there any dangers to the mules in
25 that area that Mr. Sears was camping?

1 A Yes. Well, the mules simply running untethered would be a
2 danger to themselves that way, but there are also wildlife
3 issues there. We have coyotes in the area, we also have
4 rattlesnakes, we have various other environmental hazards.

5 Q And also were there any dangers to third parties such --

6 A Third parties being neighbors of the park, yes. A concern
7 of mine was that any fire that would start would move on to
8 their property and possibly endanger their lives or their
9 property. And also for someone to camp -- or spend the night
10 in an area that is not designated as such sets a precedent for
11 others that would want to continue such activities which are
12 now allowed.

13 Q Thank you, Ranger Bishop. Did you explain to Mr. Sears
14 what would happen if he did not comply with the order to leave?

15 A I did advise him that if he did not leave, go to the
16 Danielson Ranch which was our alternative, that he would be
17 placed under arrest.

18 Q And how many -- approximately how many times did you ask
19 Mr. Sears to leave?

20 A At least three times.

21 Q At least three times. And Mr. Sears refused every time?

22 A That is correct.

23 Q And when Mr. Sears did not comply with leaving, what did
24 you do?

25 A Walked him back to our vehicle and, once again, ensured

1 that he didn't have any weapons on him. We at that time placed
2 him under arrest, read him his Miranda rights using a card that
3 was in my pocket, read it to him that way. And then we -- I
4 can't remember if it -- we contacted Ventura County Animal
5 Control to ensure that the mules would be secured at the
6 Ventura County Animal Control facility which is in Camarillo, I
7 believe it's at the airport.

8 Q Thank you, Ranger Bishop.

9 MS. MANI: Thank you, your Honor. I have no further
10 -- oh, I do have questions. May I have a moment, your Honor?

11 THE COURT: Sure.

12 (Pause)

13 MS. MANI: Your Honor, may I ask a few more
14 questions?

15 THE COURT: Sure.

16 MS. MANI: Thank you, your Honor.

17 BY MS. MANI:

18 Q Ranger Bishop, I'm going to go back to clarify a few
19 things.

20 A Okay.

21 Q What did you observe at the campsite that indicated that
22 Mr. Sears was actually camping?

23 A When I found Mr. Sears, he was asleep in a sleeping bag on
24 the ground, and the other items that I found around him were
25 indicative of someone who would be staying the evening, such as

1 food items and water items and bedding, a flashlight which
2 indicated he would need to move about at night. Typical items
3 I would find on someone that was staying in the open air
4 environment overnight.

5 Q Thank you. Now, directing you to the Danielson Ranch, did
6 you confirm with them that they had a room for Mr. Sears?

7 A The Danielson Ranch is actually a campsite, so it's an
8 equestrian-based campsite, so the purpose of the Danielson
9 Ranch was for folks to spend the evening that were accompanied
10 by horses, mules, etcetera. There are facilities there for
11 them.

12 Q So they had room for the mules?

13 A That's correct, yes, ample room.

14 Q And one more question, is there any signage that would
15 give Mr. Sears notice that the area he was in was not a
16 designated campsite?

17 A There is a sign at the administrative road that states no
18 camping is allowed there, and also that that area is only
19 accessible by park employees for administrative uses only.

20 Q Thank you, Ranger Bishop.

21 **THE COURT:** Ms. Mani, what do you want to do about
22 the exhibits?

23 **MS. MANI:** Move them into evidence, your Honor.

24 **THE COURT:** Mr. Sears, do you have any objection to
25 these exhibits, the photographs, being admitted into evidence?

1 **MR. SEARS:** No.

2 **THE COURT:** Okay, the exhibits are admitted. Thank
3 you.

4 **(Government's Exhibits Numbers 1, 2, 3, and 4 were**
5 **received in evidence)**

6 **THE COURT:** All right, Mr. Sears, do you want to ask
7 any questions of Ranger Bishop?

8 **MR. SEARS:** Yes, sir.

9 **THE COURT:** All right, why don't you go to the
10 podium, and this is your chance to do that.

11 **CROSS EXAMINATION**

12 **BY MR. SEARS:**

13 Q All right, sir, you said you observed an animal
14 unattended. I was there. I was probably within a hundred
15 feet. I'm with them all the time, so I say they're not
16 unattended.

17 **THE COURT:** Okay, hold on, Mr. Sears. What we're
18 going to do is you get to ask him questions. You will have a
19 chance later to give your testimony of what your version of the
20 events is. This is your chance to ask him questions; not to
21 make statements. Okay?

22 Q All right, sir, my question then is I was within a hundred
23 feet of the loose animal when you observed him; is that correct
24 or incorrect? What was the distance from where you found me
25 sleeping and where you saw the loose animal?

1 A It was within 50 yards.

2 Q Fifty yards.

3 A Uh-huh.

4 Q Okay. What time were you notified of my presence?

5 A Your presence was when I walked upon you.

6 Q No, you stated you were notified of my presence where you
7 found us. That's what got you there. Somebody notified you
8 that we were there.

9 A I was notified of an animal that was unsecured.

10 Q Who notified you at what time?

11 A I was notified by dispatch who got a call from our park
12 employee, and that was right about sunset, approximately an
13 hour before I arrived at the location.

14 Q At sunset? What time did sunset that time of year?

15 A I would have to refer to my report or some other notes
16 that I keep. I do not recall.

17 Q Okay, let's see, that was back in -- well, when was this
18 taking place? I don't have a date on me. Let's see --

19 **THE COURT:** Can you answer that?

20 Q -- executed on 5/10 --

21 **THE COURT:** Hold on, okay, I'm sorry. I was going to
22 ask him if he knew the answer to that. But go ahead and ask
23 your question, Mr. Sears.

24 **MR. SEARS:** Yes, sir.

25 //

1 **BY MR. SEARS:**

2 Q Do you know what the date was that you appeared and found
3 me on the ground?

4 A Yes. That was May the 9th, 2014.

5 Q May the 9th, okay. Those days are very long at that time
6 of year, so it probably didn't get dark until 9:00 o'clock at
7 least; is that correct?

8 A I do not recall.

9 Q Okay. You don't know when it got dark? You're a park
10 ranger. Your job is living outside, being outside, you don't
11 know when it got dark that time of year?

12 A I do not recall.

13 Q Okay, I'm losing track here, so bear with me. Where was
14 I? What I'm trying to do here in asking these witnesses these
15 questions is he said he was gotten the call and then an hour
16 later they arrived. You said you got the call at approximately
17 6:00 o'clock?

18 A No. I don't believe I --

19 Q When did you get the call that we were on the ground?

20 A It was just before sunset because we were en route to
21 close gates. Simply guessing, not looking at my report --

22 Q Okay, I need to know exactly when you got the call.
23 That's the question. You're here as a witness for the
24 Government --

25 **THE COURT:** Okay, these are not statements. These

1 are questions. Ask your question.

2 **MR. SEARS:** Yes, sir.

3 **BY MR. SEARS:**

4 Q I need to know exactly when you got the call.

5 A I do not recall the exact moment that I got that call.

6 Q Okay, there's got to be some records here that notify
7 everybody when you got that call. I need to know.

8 **THE COURT:** So ask the question.

9 Q Okay, you're saying you have no idea when you got the
10 call?

11 A I remember getting the call, but I don't remember what
12 time it was. Angeles dispatch --

13 Q Okay, you don't know what time you got the call.

14 A No. Angeles dispatch would have that.

15 Q But -- okay, but you -- or then you say you got -- you
16 arrived an hour later on the scene.

17 A Approximately one hour later.

18 Q Okay, so how do you do that? How do you know -- you don't
19 know when you got the call and then you say you arrived an hour
20 later on the scene. How do you do that?

21 A I stated approximately one hour later.

22 Q Yeah, but you just said you had no idea at what time you
23 go the call that we were on the ground. How do you determine
24 an hour later you arrived? It doesn't make any sense to me.

25 **THE COURT:** Okay, that's not a question. You can

1 argue that later, but if you have a question in there, go ahead
2 and ask it.

3 **BY MR. SEARS:**

4 Q So my next question is, at what time did you make contact
5 with me? What time did you make contact -- wake me up out of
6 my sleeping bag?

7 A I believe it was -- can I refer to my notes, to my
8 citation?

9 **THE COURT:** I don't have a problem with that.
10 Mr. Sears, do you have a problem with that?

11 **MR. SEARS:** No.

12 **THE COURT:** All right, are the citation --

13 **MR. SEARS:** As long as I can see them.

14 **THE COURT:** Of course. Is the citation here,
15 Ms. Mani?

16 **MS. MANI:** Yes, your Honor. One moment.

17 **THE COURT:** What is it, Ranger Bishop, that you would
18 need to refer to to help your recollection as to the timing?

19 **THE WITNESS:** It would be either a probable cause
20 statement that is on the back of one of the citations, or any
21 of the other items that I've used for notes or reporting item.

22 **THE COURT:** All right, well, let's see if the
23 Government has those. Okay, Ms. Mani, can you first show
24 Mr. Sears what it is that you're going to be showing the
25 witness?

1 **MS. MANI:** Yes, your Honor.

2 **THE COURT:** Mr. Sears, have you seen these before?

3 **MR. SEARS:** Pardon me, sir?

4 **THE COURT:** Have you seen these before? I think one
5 is just the citation, right?

6 **MR. SEARS:** Yes, I have.

7 **THE COURT:** You have seen that? Okay, so we're going
8 to show that to the witness now, okay?

9 **MR. SEARS:** All right.

10 **THE COURT:** And we'll see if that helps him remember
11 any of these -- or I guess the question was what time he woke
12 you up. So don't read from -- well, you read them to yourself,
13 but don't read from the report to -- out loud.

14 **THE WITNESS:** Okay.

15 **THE COURT:** And then once you've done that, once
16 you've read it to yourself, let us know if that helps you
17 recall what time you woke up Mr. Sears.

18 **THE WITNESS:** Yes, your Honor.

19 **(Pause)**

20 **THE COURT:** Does that help you remember the time?

21 **THE WITNESS:** Yes. The time was 2046 hours.

22 **BY MR. SEARS:**

23 Q And what time is that in old time terms, like 12:00
24 o'clock, 2:00 o'clock?

25 A That would have been 8:46.

1 Q Eight forty-six.

2 **THE COURT:** And, I'm sorry, just so I understand,
3 that's the time you woke him up?

4 **THE WITNESS:** That I observed him there the first
5 time.

6 **THE COURT:** That you saw him, okay.

7 **THE WITNESS:** That's correct.

8 **BY MR. SEARS:**

9 Q Okay, it was well past dark when I was woken up. It was
10 pitch black dark, there was no --

11 **THE COURT:** Is this a question or a statement?
12 You'll get a chance to make all the statements you want when
13 you're testifying. But right now, you get to ask questions.

14 **MR. SEARS:** Yes, sir.

15 **BY MR. SEARS:**

16 Q Sir, was it very dark when you woke me up? The picture --
17 here.

18 A Yes, it was.

19 Q It was. And then that time of year, it does not get dark
20 -- okay, that's -- okay, where did you tell me I could go if I
21 got up and left?

22 A To the Danielson Ranch.

23 Q To the Danielson Ranch. And how far away is that?

24 A That is approximately two miles south.

25 Q Two miles south down that administrative road?

1 A That is correct.

2 Q And were they open?

3 A Yes.

4 Q How would I know that?

5 A I made a phone call to the supervisor of the state parks,
6 which the Danielson Ranch is located on Point Mugu State Park,
7 and I asked him if it would be possible for you to go there and
8 he said yes, that is fine.

9 Q Okay, did you inform me -- as you're stating now that you
10 made a special call to get the place open for me under a
11 special circumstance?

12 A It would not need to be opened. It's an open area. But
13 it --

14 Q But a person to go in there could not go in there willy
15 nilly. You had to have permission; is that correct?

16 A That is correct. I --

17 Q Okay, did you --

18 **THE COURT:** Let him finish his answer before you ask
19 the next question.

20 A I obtained permission.

21 Q You obtained permission for me to go in.

22 A Uh-huh.

23 Q Okay, did you inform me of that?

24 A Yes.

25 Q You did?

1 A Yes.

2 (Pause)

3 Q Okay, just to reiterate, without that special permission,
4 without that phone call from yourself, that would have been
5 closed to my entry.

6 A You said by -- with myself or my cell?

7 Q You made a phone call to the ranch to get special
8 permission to -- for me to enter.

9 A I wanted to make sure there was -- it was all right for
10 you to go there administratively by the State Park --

11 Q Right, but under normal circumstances it wouldn't have
12 been.

13 A I do not know what their regulations are on folks going in
14 on their own. I do not know the answer. That's one reason I
15 made that phone call. That's another agency.

16 Q And you informed me that you made this phone call?

17 A Yes, sir.

18 Q How far -- oh, you said it's two miles away?

19 A Yes, sir, approximately two miles.

20 Q Okay, you made the statement the mules were being held
21 under dangerous conditions.

22 A I don't believe I made that statement.

23 Q You made a number of statements that they were subject to
24 fire danger or they were -- the area was something wrong with
25 the area. You did, I heard you. I was right here. I can't

1 remember exactly what they were. The prosecuting attorney was
2 asking you under what conditions you found the mules and you
3 made some statements on that. Could you repeat those, please?

4 A She asked me if there were dangers to you or the mules and
5 I did --

6 Q Yeah.

7 A -- state that there were coyotes in the area --

8 Q Okay.

9 A -- and also rattlesnakes and other environmental hazards.

10 Q Okay, so a coyote is a danger to a mule? Do you know that
11 for a fact? Have you ever witnessed a coyote attacking a mule?

12 A I have not witnessed --

13 Q No.

14 A -- a coyote attacking a mule.

15 Q Right. Have you ever witnessed a rattlesnake attacking a
16 mule?

17 A I have not witnessed a rattlesnake --

18 Q Okay.

19 A -- attacking a mule.

20 Q Okay, so how did you --

21 **THE COURT:** Let him finish his answers, Mr. Sears,
22 before you ask the next question, okay?

23 **MR. SEARS:** Sir?

24 **THE COURT:** Let him finish his answers before you ask
25 the next question.

1 **MR. SEARS:** I -- excuse my abruptness, but it's
2 difficult. I'm not a lawyer, I'm not experienced at this.
3 Ideas go through me very fast and they want to go out.

4 **THE COURT:** I understand, but you just -- we're
5 recording all of this.

6 **MR. SEARS:** Yes, sir.

7 **THE COURT:** So to make sure that the recording system
8 picks up everybody, you can't talk over anyone. So just listen
9 to the answers, then ask your next question, okay?

10 **MR. SEARS:** Yes, sir.

11 **THE COURT:** Thank you. Go ahead.

12 **MR. SEARS:** Okay, we went off on a sidebar there and
13 I forgot where I was.

14 **THE COURT:** You were at the rattlesnakes attacking a
15 mule.

16 **MR. SEARS:** Okay.

17 **BY MR. SEARS:**

18 Q You never witnessed a rattlesnake attacking a mule; is
19 that correct?

20 A No, sir, I haven't.

21 Q You've never witnessed a coyote attacking a mule.

22 A No, sir, I have not.

23 Q Okay, so how were you able to say that they were a danger
24 to the mules?

25 A The mere presence of the mule being untethered, unsecured,

1 concerned me because it could get into danger on its own, not
2 being tethered.

3 Q Yes, you made the statement that the coyote was a danger
4 to a -- you inferred -- did you infer that the coyote was a
5 danger to the mule?

6 A I inferred that it could be, yes.

7 Q Yes. You -- have you -- you've had no experience in your
8 career of 12 years of ever seeing a coyote attack a mule?

9 A No, sir.

10 Q Okay. And then on signage, did -- where we entered --

11 **MR. SEARS:** Do I -- I have pictures here. Do I go
12 that far?

13 **THE COURT:** That would be during your turn to
14 testify.

15 **MR. SEARS:** That -- okay.

16 **BY MR. SEARS:**

17 Q Signage, administrative road, okay, the signs that you're
18 referring to were at the start, at the gate of the
19 administrative road.

20 A That is correct.

21 Q Okay, yes, did you observe any signs to the left of any
22 distance of that administrative roads? The road runs basically
23 what, east and west?

24 A I believe it's north and south.

25 Q North and south, okay. Did you observe any signs to the

1 north of the administrative road for any distance that informed
2 me -- that would inform somebody that they were trespassing,
3 that they were entering illegally, so forth and -- that the
4 area was closed, anything like that?

5 A On the north side of the administrative road?

6 Q Well, I believe we came in on the south, if I got my
7 directions right, so I would say the south.

8 A On the south side, no.

9 Q Yes, thank you. Oh, you said you talked to another ranger
10 who said he saw me before.

11 A The ranger that reported a horse that was unsecured --

12 Q Yes.

13 A -- reported a horse unsecured.

14 Q Yes. You made the statement here that you -- somebody or
15 yourself had contacted me before. Who was that? Was it you?
16 And when did it take place?

17 A When I called the state park supervisor, Darrell
18 Readyhoff, I asked him if he had any contact with you
19 previously --

20 Q Right.

21 A -- and he stated he had seen you walking along the road
22 several days before but had not made contact with you.

23 Q Okay, what road was that?

24 A I do not recall.

25 Q Was it in park -- was it inside park boundaries?

1 A It was not within National Park Service --

2 Q It was not on any -- it was not a road that was on
3 National Park land.

4 A That's correct.

5 Q So I can assume he might have seen me going down a county,
6 city road some place?

7 A That is correct.

8 Q Okay, thank you. The Danielson Ranch, do they have
9 literature on exactly who they allow in and when and what times
10 and what days? Do they provide that?

11 A I do not know. That is within the State Park boundaries.

12 Q Okay, is that information -- would that information have
13 been available to me at that night some place that I could
14 refer to and find out if I made a trip to the Danielson Ranch,
15 that it would be productive, that I would actually get through
16 the gates and be able to sleep?

17 A I do not know where that literature is. I can't answer
18 that. I don't know.

19 Q Okay, so there was nothing close by where I -- where you
20 found me that would inform me that there was another place for
21 me to go that I could go to?

22 A No, sir. You were on federal property and there was
23 nothing on federal property --

24 Q Okay.

25 A -- referring to that.

1 Q Okay. And so also you did not -- the sign -- there were
2 no signs on signage -- did you say that there was a sign at the
3 start of the administrative road that it was National Park
4 land?

5 A I would have to refer to any exhibits or photographs there
6 are of that. From my memory, there is an arrowhead sign that
7 has an arrowhead on it that indicates the National Park
8 Service. There's also a sign there that states, "For
9 administrative use only" or "Personnel use only."

10 Q Yes, but it doesn't identify itself as National Park
11 Service.

12 A The arrowhead insignia would designate it as a National
13 Park Service.

14 Q And that's on the administrative gate?

15 A It is a sign adjacent to the administrative gate. Or,
16 there's not a gate there, it's an administrative road.

17 Q You know that for sure?

18 A Yes.

19 Q Okay, was that sign there when I was arrested?

20 A Yes.

21 Q But that was on the administrative road within a few feet
22 of that administrative road, nowhere else?

23 A It is at that administrative road entrance, that is
24 correct.

25 Q Right.

1 A It refers to special regulations due to the fire that
2 occurred.

3 Q Okay. So the gentleman that said he saw me before -- to
4 reiterate, just to go over this again -- he did not see me in
5 National Park -- on National Park land. He saw me somewhere on
6 -- outside of the National Park?

7 A If you're referring to the State Park ranger that I
8 contacted by phone, that is correct. He stated several days
9 earlier he had seen you at another location.

10 Q Okay, that other location, that's important to me. It was
11 not inside the National Park.

12 A No, sir.

13 Q It was not. Where was the other -- he didn't tell you
14 where the other location was?

15 A He may have, but I do not recall. I do recall that it was
16 not on my -- in my jurisdiction, on my property, so
17 (indiscernible)

18 Q Well, I think it's important that the inference is --

19 **THE COURT:** You've established it, though, Mr. Sears
20 that it was not on federal property. You've established that.

21 **MR. SEARS:** I have?

22 **THE COURT:** Yes, you have.

23 **MR. SEARS:** Okay, thank you, your Honor. All right,
24 sir, I don't have any further questions.

25 **THE COURT:** Thank you, Mr. Sears. Why don't you have

1 a seat? Ms. Mani, any follow-up?

2 **MS. MANI:** Yes, your Honor.

3 **THE COURT:** Go ahead.

4 **REDIRECT EXAMINATION**

5 **BY MS. MANI:**

6 Q Ranger Bishop, where you found Mr. Sears, was there
7 anything to indicate it was a park campsite?

8 A Nothing.

9 Q How are park campsites designated?

10 A They're designated typically with a kiosk or a sign, a
11 board, that would describe the sites, that would actually
12 designate the name of the site, the hours of the site, the
13 regulations for site usage.

14 Q And was Mr. Sears on National Park Service land?

15 A Yes, he was.

16 **MS. MANI:** Thank you, your Honor.

17 **THE COURT:** Mr. Sears, do you have any further
18 questions about those two issues that Ms. Mani just raised?

19 **MR. SEARS:** What were they?

20 **THE COURT:** The one about whether there was any
21 signage -- or if there had -- if you had been at a campsite, is
22 there signage there showing it is a campsite. That was one of
23 the issues. And then whether you were on federal property when
24 he found you. Those were the two issues.

25 **MR. SEARS:** Okay, signage.

1 **THE COURT:** Specifically at campsites.

2 **MR. SEARS:** Yes, sir.

3 **RE CROSS EXAMINATION**

4 **BY MR. SEARS:**

5 Q You did not observe any signs where I was arrested that
6 informed me that I was at a campsite?

7 A That is correct, there were no signs indicating that was a
8 campsite.

9 Q Right, there were no signs saying this is a campsite, you
10 can stay here, have fun.

11 A There were no signs such as that.

12 Q Okay. No signs -- I entered, I never came across a sign
13 telling me one thing or another -- and I'm back into making a
14 statement.

15 **THE COURT:** You are. Do you have any more questions
16 of this witness?

17 **MR. SEARS:** That's it, your Honor.

18 **THE COURT:** All right, thank you, Mr. Sears. Thank
19 you, sir, you can step down.

20 **THE WITNESS:** Thank you.

21 **(Witness steps down)**

22 **THE COURT:** Do you have any other witnesses,
23 Ms. Mani?

24 **THE WITNESS:** Do I leave these things over here, your
25 Honor?

1 **THE COURT:** Yeah, leave the exhibits there.

2 **MS. MANI:** No, your Honor.

3 **THE COURT:** No further witnesses, okay. Mr. Sears,
4 the Government -- and the Government rests?

5 **MS. MANI:** Yes, your Honor.

6 **THE COURT:** All right, so they're done presenting
7 their evidence. Now is the chance for you to present your
8 evidence, okay? So you can do that through your own testimony
9 if you want to, but you don't have to testify if you don't want
10 to. No one can force you to.

11 **MR. SEARS:** Uh-huh.

12 **THE COURT:** Or you can call your own witnesses. What
13 would you like to do?

14 **MR. SEARS:** Well, I would like to present the
15 evidence that I have --

16 **THE COURT:** Okay.

17 **MR. SEARS:** -- which is some pictures.

18 **THE COURT:** And do you want to do that through your
19 testimony?

20 **MR. SEARS:** Through my --

21 **THE COURT:** You can't just give in pictures. You
22 have to have somebody testifying as to what the pictures are
23 and what they show, so --

24 **MR. SEARS:** Okay, I can do that myself.

25 **THE COURT:** Okay.

1 **MR. SEARS:** Also using a witness in combination.

2 **THE COURT:** Either way. Do you want to present a
3 witness or do you want to do it yourself?

4 **MR. SEARS:** Oh, it's one or the other?

5 **THE COURT:** You can do both.

6 **MR. SEARS:** Well, that's what I want --

7 **THE COURT:** But we're not going to have two people
8 talk about the exact same thing, okay. We don't want to -- we
9 don't need to be repetitious here, so --

10 **MR. SEARS:** Well --

11 **THE COURT:** Do you want to come up to the stand and
12 testify, or do you want somebody else to come up to the stand
13 and testify first? Or is there nobody else to testify and you
14 want to do it all? You don't have to call any witnesses. If
15 you think the Government hasn't proven their case, you can
16 argue that and you don't have to call witnesses.

17 **MR. SEARS:** Well, I've got pictures here showing
18 where I entered.

19 **THE COURT:** Okay, and do you want to present those
20 through yourself or through another witness?

21 **MR. SEARS:** I would like to do both, but you're
22 saying I can only do one.

23 **THE COURT:** Well, why don't you start with doing it
24 one way, and then we'll see if you need to do it through
25 somebody else as well? How's that?

1 **MR. SEARS:** All right then, yes, sir.

2 **THE COURT:** Okay, so do you want to start or do you
3 need somebody else to start?

4 **MR. SEARS:** I'll start.

5 **THE COURT:** Okay, so come on up to the stand. Up
6 here now. I'm going to have you come over here, Mr. Sears, to
7 the witness stand, okay, because now you're a witness.

8 **MR. SEARS:** I can take this stuff with me?

9 **THE COURT:** Sure. Okay, put the stuff down so that
10 we can swear you in, okay?

11 **THE CLERK:** Remain standing, Mr. Sears, please.

12 **JOHN SEARS, DEFENDANT, SWORN**

13 **THE CLERK:** Please restate your name for the record.

14 **MR. SEARS:** John C. Sears.

15 **THE CLERK:** Thank you.

16 **THE COURT:** And that's S-E-A-R-S; is that right,
17 Mr. Sears?

18 **MR. SEARS:** Yes, sir.

19 **THE COURT:** Okay, now, you're then sworn in and
20 you're under oath, okay? So now everything that you say is
21 testimony that the Court can consider, okay? So I'm not going
22 to have you like ask questions of yourself. I'm going to have
23 you just give a statement of anything you want to testify to
24 that's relevant to this case, okay? So now what you say is
25 evidence that the Court can consider. But stick to facts, all

1 right, not to argument. Does that make sense?

2 **MR. SEARS:** Well, not being a lawyer, I'll do the
3 best I can.

4 **THE COURT:** And I'll try to help you along the way,
5 if need be.

6 **MR. SEARS:** Yes, sir, thank you.

7 **THE COURT:** Sure. All right, you go ahead.

8 **DIRECT EXAMINATION (VIA NARRATIVE)**

9 **BY MR. SEARS:** Okay, I guess the best way to start is
10 how it started. We'd been walking all day long. That's how we
11 live. We live on our feet. We don't live in houses, we don't
12 use automobiles. Walking is a way of life for us and that's
13 the way we survive. It enables us to live. It makes us want
14 to live, it gives our life meaning. This is what we are. So
15 we'd been doing it all day long. And when I say "we," I refer
16 to myself and my animal companions, which are two mules. They
17 carry all my gear. So we'd been walking all day long. It was
18 time to stop. You walk all day, a most necessary part of that
19 is to go to sleep at night and stop and rest your bones so you
20 can get up in the morning and do it again. So we did that.
21 And we did not plan to come here. We didn't even know it was
22 there. We simply looked down the street; and as we looked down
23 the street, we could see hills. And it was obvious there
24 weren't any houses on them, and so we proceeded there as a
25 potential place to where we could stop for the night and go to

1 sleep. So we --

2 **MR. SEARS:** So here is an aerial view, your Honor.
3 Do I present this to you or --

4 **THE COURT:** Well, tell me -- tell the Court about
5 what the picture is first and how you got it and did you take
6 it and how do you know it's accurate.

7 **MR. SEARS:** Oh, okay. Well, it was taken by my
8 witness with his camera equipment and gear. It's a GPS
9 satellite view. It has the --

10 **THE COURT:** Do you know when it was taken?

11 **MR. SEARS:** Yes. It was taken after the incident.

12 **THE COURT:** Do you know how long after the incident?

13 **MR. SEARS:** Oh, I don't think any -- oh, well, quite
14 a ways.

15 **THE COURT:** Your witness would when it was taken?

16 **MR. SEARS:** He would because he took it.

17 **THE COURT:** Okay, so why don't you testify about --
18 and you're going to put that witness on in a little bit?

19 **MR. SEARS:** It seems so as this would --

20 **THE COURT:** You may need to in order to the -- for
21 the picture to be admitted into evidence.

22 **MR. SEARS:** Right.

23 **THE COURT:** So you don't have to testify again after
24 him, why don't you tell us what the significance of that
25 picture is?

1 **MR. SEARS:** Well, it gives perspective as to where we
2 went. It's claimed we were a danger -- I know at the
3 arraignment, the first trial, the Government attorney said we
4 were a hazard to the park. And so this picture says where we
5 were and puts in context exactly what the surroundings were and
6 where we were and, you know, the relationships of the area.

7 **THE COURT:** Okay, move on.

8 **MR. SEARS:** Okay, and this other picture shows where
9 I entered.

10 **THE COURT:** Okay, can we go -- actually, go back to
11 the first one. And on the back of that picture, just put a
12 number 1 -- I'm sorry, put a letter "A." Okay, and on the back
13 of the second one you're about to talk about, put a letter "B."
14 Now go ahead and talk about B.

15 **MR. SEARS:** Okay, then B is where we entered. It
16 shows a -- where we entered and the area that we went back in
17 to. And the fence is down, it's a barbed wire fence, it's been
18 down a very long time. You can observe that the wire has been
19 cut, but the cuts were very old and rusted. We did not cut the
20 fence.

21 **THE COURT:** Did you take that picture?

22 **MR. SEARS:** I did.

23 **THE COURT:** And do you know when you took it?

24 **MR. SEARS:** I took it after the incident, a few days,
25 maybe a week after the incident.

1 **THE COURT:** Okay. Is that --

2 **MR. SEARS:** So that's --

3 **THE COURT:** Is that what the location looked like on
4 the day of the incident?

5 **MR. SEARS:** Exactly the same, it has not changed.

6 **THE COURT:** All right, any other pictures you want to
7 talk about?

8 **MR. SEARS:** And this is --

9 **MS. MANI:** Your Honor?

10 **THE COURT:** I'm sorry.

11 **MS. MANI:** May we see copies of the pictures?

12 **THE COURT:** Yes, I'm sorry. And I meant -- I was
13 going to have them testify to each one and then show you the
14 copies. But why don't you show them A and B at this point.

15 **MS. MANI:** Thank you, your Honor.

16 **MR. SEARS:** This would be C, I suppose.

17 **THE COURT:** Yeah, and if you have another one, put C
18 on the back. Hold on just a second while Ms. Mani looks at A
19 and B before you talk about C, so she can listen to your
20 testimony. All right, why don't you go ahead now with
21 picture C.

22 **MR. SEARS:** And picture C is a picture of a white
23 fence, which was bordering -- well, where we entered where the
24 barbed wire fence is, this white fence started adjacent to it
25 to continue its fencing quite a ways down from the barbed wire

1 point. And quite a ways down from that this sign is on the
2 fence, 490 Broom Road Ranch Centers California State Parks. We
3 never saw that when we entered. We were not aware of it. We
4 did not become -- I did not become aware of this until I
5 returned to take pictures.

6 **THE COURT:** And when was that picture taken?

7 **MR. SEARS:** That was taken the same time that other
8 picture was taken, Exhibit B.

9 **THE COURT:** So maybe a week up to after the incident
10 -- or up to a week?

11 **MR. SEARS:** Somewhat like that. I was taken to jail,
12 of course, and then I was released and taken back to the
13 Ventura County Animal Shelter. And then from there, I walked,
14 of course, back to this location. I can't remember how --
15 exactly how many days that was.

16 **THE COURT:** And does that picture that you're looking
17 at, does that -- is that accurate as to what that location
18 looked like at the time you took the picture?

19 **MR. SEARS:** Yes.

20 **THE COURT:** Okay. Why don't you show that to
21 Ms. Mani also? And are there any other pictures you want to
22 talk about at this time?

23 **MR. SEARS:** That's it, your Honor.

24 **THE COURT:** All right. Now, as to Exhibits B and C,
25 do you want those exhibits as part of the record? And A I'm

1 not talking about because I think your friend is going to have
2 to talk about that.

3 **MR. SEARS:** Oh, yes.

4 **THE COURT:** B and C, though, do you want to admit
5 them into evidence?

6 **MR. SEARS:** Yes, sir.

7 **THE COURT:** Any objection, Ms. Mani, for B and C?

8 **MS. MANI:** No, your Honor.

9 **THE COURT:** All right, so B and C are admitted into
10 evidence.

11 **(Defendant's Exhibits B and C were received in evidence)**

12 **THE COURT:** All right, is there any further testimony
13 you want to give at this time about the incident?

14 **MR. SEARS:** Well, to continue on about the
15 incident --

16 **THE COURT:** Sure.

17 **MR. SEARS:** -- we entered here, as I've got pictures
18 to show. We entered and we walked back in there. I dropped
19 the stuff, dropped my gear, took it off the mules, and turned
20 one loose and had the other one tethered. I fixed my dinner
21 and then I switched the mules and put one on the rope and
22 turned the other one loose, and I went to sleep. And I was
23 awoken at around 10:00 o'clock at night in the dark. There was
24 no moon. Three -- I can't remember -- I should have -- I
25 wanted to ask the officer how many vehicles came into this

1 area. They drove in in their vehicles. They didn't walk in.
2 They drove in in three large vehicles. Well, I think there
3 were three large vehicles, but I can't remember exactly the
4 number. So we were awoken and asked why we were there, and we
5 told them we were there because we'd been walking all day and
6 we stopped to rest for the night, and it was public land, and
7 public space is all there is left now to really -- to stop and
8 rest. Everything else is private, it's highly populated. If
9 you're going to move freely in this country, if you're going to
10 be able to walk, do something besides sit in a car, you need to
11 have access to public space. You have to go to sleep at night,
12 and public space is the space where you can do this. And so we
13 were claiming our right to do just that. This is public space.
14 We were there for a very short period of time. We did not
15 cause any damage. There was no damage done to the area. There
16 could not be for the amount of time we were there. I've been
17 doing this for years. I've been doing this for 31 years and
18 I'm very careful about doing damage. So I went to sleep. I
19 was awoken at 10:00 o'clock at night. And bottom line is I was
20 given a choice, get off, go out into the dark, pack up and go
21 to -- an alternative was this Danielson Ranch. The officer
22 said he informed me that he made a special call that gave me
23 permission to go in. My experience with state parks and all
24 the rest of it is -- especially for equestrians -- no dice, no
25 deal, you can't come in here and it's dawn to dusk closure,

1 open at dawn, close at dusk, and so that had been my
2 experience. And when he told me I could go there, it was not
3 believable. And he did not inform me that he made a special
4 call. I have no recollection of the officer informing me that
5 he made a special call to get me a special entry for the night.
6 I wasn't informed of that. I assumed that when I got there, it
7 was going to be closed, just like it usually is. And under
8 those conditions, I said no, I'm not going to leave. We'll be
9 gone in the morning. And so I was arrested.

10 **THE COURT:** Okay, is there anything else you'd like
11 to say at this time? And not like a big statement, but facts
12 as to what happened. Anything else you think you need to
13 testify about?

14 **MR. SEARS:** No. I was arrested, taken to jail, I was
15 treated very well, I got no complaints about that.

16 **THE COURT:** That's good to hear.

17 **MR. SEARS:** And then I was released a short time
18 after that -- upon entering jail, I was released a short period
19 of time after that. The next day, taken back to my mules and
20 my gear and was allowed to go back on the street.

21 **THE COURT:** Okay, thank you, Mr. Sears. Now Ms. Mani
22 gets to ask you some questions, though, okay? Like you asked
23 the other agent, she gets to ask you some questions --

24 **MR. SEARS:** Yes, sir.

25 //

1 **THE COURT:** -- if she wants to. Ms. Mani, any cross
2 examination?

3 **MS. MANI:** Yes, your Honor.

4 **THE COURT:** Go ahead.

5 **MS. MANI:** Thank you. Good morning, Mr. Sears.

6 **THE WITNESS:** Good morning.

7 **CROSS EXAMINATION**

8 **BY MS. MANI:**

9 Q In the area you were sleeping, there was no -- no fire
10 ring was there, was there?

11 A Pardon me?

12 Q There was no fire ring in the area, was there?

13 A No fire --

14 **THE COURT:** No fire ring.

15 Q Fire ring.

16 A No, there was no sign of fire at all.

17 Q There was no --

18 A Except for, you know, wildfires. Wildfires in southern
19 California burnt southern California over many times.

20 Q There was no campsite number, was there?

21 A No.

22 Q There was no parking spaces for cars?

23 A No.

24 Q No picnic table?

25 A No.

1 Q No signage about camping rules?

2 A No.

3 Q Mr. Sears, you said you've been doing this for a very long
4 time.

5 A Yes.

6 Q Thirty-one years.

7 A Yes.

8 Q You've been to official campgrounds before, haven't you?

9 A No, I never stay in them. They're very restrictive.
10 They're unpractical. For a person walking every day all day,
11 to -- again, these venues of what you're referring to are so
12 far apart, so scarce, it's totally impractical to be able to go
13 to them. And they're very expensive, too, I'll tell you. We
14 were coming down Highway 1 to get here along the coast. They
15 wanted -- a state park, I think it was Leo Carrillo State Park,
16 they wanted \$45 a night. And for us, no horses allowed. And
17 we asked them -- there was a big, vacant, open field on the
18 side of the hill. It was huge. There were no buildings around
19 anywhere. Nobody -- you could not bother a soul. We asked
20 them if we could spend the night there. They said no dice, no
21 deal. So state parks are not for our use. And as I said,
22 they're so far apart, to get to one to sleep every night is
23 basically impossible.

24 Q Mr. Sears, you say you don't stay at the state parks, but
25 have you been to a campground before?

1 A You know, I don't -- I've never stayed in one. I've
2 passed --

3 Q Have you been to a campground?

4 A -- by them. I pass by them, you know, I see the tables
5 and the chairs and the asphalt, and I see the \$300,000 motor
6 homes and all the rest of it, but I don't stay at them. I
7 don't want to. I have no desire to stay at them. They're
8 basically another house without a roof. We don't live like
9 that. We don't go into houses. We don't use automobiles. We
10 live outside. That is very important to us. That makes us
11 want to live, not obtaining a place, very expensive place.
12 It's really no different than being in a house.

13 Q Thank you, Mr. Sears.

14 A Yes. That's -- I think that's important for me to say.
15 These campgrounds are not living outside. They have nothing to
16 do with living outside. They're recreational facilities for
17 people to barbecue and socialize in a different venue other
18 than the house, but they're very close to being the same thing.
19 It's not living outside. And we're not going to live like
20 that.

21 Q So, Mr. Sears, you said that there was a fence that you
22 entered through.

23 A Yes.

24 Q This fence was knocked down.

25 A It was.

1 Q Also, Danielson Ranch is a public space that was available
2 to you, was it not?

3 A I didn't know.

4 Q You --

5 A The officer said he made a special call to make it
6 available to us.

7 Q So he informed you that he made that --

8 A No, he did not. That's my contention. I was not informed
9 that he'd made a --

10 Q But he --

11 A -- special call. He just made a blanket statement to me
12 there was a -- he said it was a state park, as a matter of
13 fact. He said there was a state park up the road about three
14 miles where you can go, and that was the extent of it.

15 Q So he informed you that there was a place for you and your
16 mules to go.

17 A Yes.

18 **MS. MANI:** May I have a moment, your Honor?

19 **THE COURT:** Sure.

20 **MS. MANI:** No further questions, your Honor.

21 **THE COURT:** All right, anything further you want to
22 testify to based on the questions that Ms. Mani has asked?

23 **MR. SEARS:** Okay, your Honor, give me a moment --

24 **THE COURT:** Sure.

25 //

1 **MR. SEARS:** -- to try to grab it.

2 **REDIRECT EXAMINATION**

3 **MR. SEARS:** Well, I think it's important when the
4 officer said that he told me there was a place I can go, he
5 said it was a state park. The Danielson Ranch is not a state
6 park; is that correct? Too late to ask her a question?

7 **THE COURT:** Well, you're not -- she's not a witness.

8 **MR. SEARS:** Okay.

9 **THE COURT:** You're the witness.

10 **MR. SEARS:** Okay, well, I have no information that
11 the Danielson Park (sic) is -- it's a private facility is what
12 it is, I assume. It's not a state park. And the officer told
13 me state park, there is a state park you could go up the road
14 about three miles. So the whole thing is very fuzzy. And he
15 did not inform me that he made a special call to get me into a
16 place to where I could spend the night. It was referred to as
17 a state park. And my experience with state parks -- and as I
18 just previously testified, when I was going down Highway 1, the
19 Leo Carrillo State Park on the coast there, no, they weren't
20 going to let me in there.

21 **THE COURT:** Okay, anything further you want to add?

22 **MR. SEARS:** That's it, your Honor.

23 **THE COURT:** All right, you can step down then.

24 **(Witness steps down)**

25 **THE COURT:** Okay, now, you have a witness that you

1 want to present?

2 **MR. SEARS:** Yes, sir.

3 **THE COURT:** Okay, I assume he's out in the hallway,
4 so why don't -- maybe somebody could get him. What's his name?

5 **MR. SEARS:** John McDonald.

6 **THE COURT:** Maybe Mr. McDonald can be asked to come
7 in and you can ask him questions from the podium, okay?

8 **MR. SEARS:** Yes, sir.

9 **THE COURT:** Are you going to ask him about any of the
10 photographs, Mr. Sears? Are you going to ask him questions
11 about A, B, or C?

12 **MR. SEARS:** Yes.

13 **THE COURT:** Then why don't you leave those here then,
14 okay?

15 **MR. SEARS:** Okay.

16 **(Pause)**

17 **THE COURT:** All right, if you can go to the podium
18 now, Mr. Sears. Mr. McDonald, come on up.

19 **JOHN MC DONALD, DEFENDANT'S WITNESS, SWORN**

20 **THE CLERK:** Please state your name for the record and
21 spell your last name.

22 **THE WITNESS:** John McDonald, M-C-D-O-N-A-L-D.

23 **THE CLERK:** Thank you.

24 **THE COURT:** All right, Mr. Sears, you can ask him
25 whatever questions you want to ask him about the incident.

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DIRECT EXAMINATION

BY MR. SEARS:

Q All right, sir, you took some pictures. You took a picture -- you took that aerial photograph.

A No. I got that off of Google Map, Google Earth.

Q Oh, okay, so then I'm mistaken. So that's where you got the picture. It originated through your action from a Google map?

A Yes.

Q Okay.

A Yeah.

Q And what is it exactly that you're looking at?

A It's an aerial view of the spot where you were there for the night and where you entered -- I put the little notes down here where you entered to access that site, and then where the sign is that's shown here in Exhibit C.

Q Okay, and then -- well, okay. That would be it for that picture. And then the picture that shows where I entered.

THE COURT: Is it B?

A Yeah, that's right, B. Yes, that's the picture.

Q Right, you observed that same -- what picture there, you saw the same thing; is that correct?

A Yeah. I was there with you when we returned to see where you were.

Q And you saw that?

1 A Yes.

2 Q Okay. And you did not see any signs or -- informing that
3 there was private -- no trespassing signs or government
4 property or national park land or anything else?

5 A No.

6 Q Right.

7 A I just saw the -- I just saw that there was a -- seemed
8 like a path that people had taken before --

9 Q Right.

10 A -- and it was leading off the street across the street
11 from the houses.

12 Q Right. And then the third picture is the sign.

13 A The sign, yeah.

14 Q That's the sign that -- approximately how far would you
15 say that sign was from where I entered?

16 A It's probably about 300 feet.

17 Q Three hundred feet, okay. Do I want to ask you anymore
18 questions? I guess not.

19 **THE COURT:** Okay, do you want to move Exhibit A into
20 evidence? That's the aerial photo.

21 **MR. SEARS:** Yes.

22 **THE COURT:** All right, any objection?

23 **MS. MANI:** No, your Honor.

24 **THE COURT:** All right, A is admitted.

25 **(Defendant's Exhibit A was received in evidence)**

1 **THE COURT:** Ms. Mani, do you have any cross
2 examination of Mr. McDonald?

3 **MS. MANI:** Yes, your Honor.

4 **THE COURT:** All right, Mr. Sears, why don't you have
5 a seat.

6 **MS. MANI:** Good morning.

7 **THE WITNESS:** Good morning.

8 **CROSS EXAMINATION**

9 **BY MS. MANI:**

10 Q When you went to the area in which Mr. Sears was sleeping,
11 did you see anything that would show that it was a designated
12 campsite?

13 A No.

14 **MS. MANI:** Thank you, your Honor.

15 **THE COURT:** Okay. Mr. McDonald, you can step down.
16 Thank you very much.

17 **(Witness steps down)**

18 **THE COURT:** Mr. Sears, any other witnesses?

19 **MR. SEARS:** No, sir.

20 **THE COURT:** All right, do you rest? Meaning are you
21 done with presenting your evidence?

22 **MR. SEARS:** I am.

23 **THE COURT:** Okay, thank you. Any rebuttal?

24 **MS. MANI:** No, your Honor.

25 **THE COURT:** Okay. So we're done with the evidence

1 portion now. I'll give each side about five minutes to present
2 any closing argument that you have, okay? So they get to go
3 first, Mr. Sears, because they've got what's called the burden
4 of proof. So they go first and then you get to tell me why --
5 whatever you want to tell me.

6 **MR. SEARS:** All right, thank you.

7 **(Pause)**

8 **MS. MANI:** May I have a minute, your Honor?

9 **THE COURT:** Sure.

10 **(Pause)**

11 **MR. SEARS:** Your Honor, may I say something?

12 **THE COURT:** What does it have to do with?

13 **MR. SEARS:** Pictures.

14 **THE COURT:** Well, you can -- during your closing you
15 can make statements about the pictures, okay?

16 **MR. SEARS:** These are different pictures.

17 **THE COURT:** All the -- you said you were done
18 presenting evidence, so we're done.

19 **MR. SEARS:** Okay.

20 **THE COURT:** So now --

21 **MR. SEARS:** So it's too late, I missed it.

22 **THE COURT:** Yeah, it's too late, we've closed the
23 evidence, okay? All right, Ms. Mani?

24 **MR. SEARS:** Excuse me, could I make -- they're not
25 really evidence. They just show how we're living.

1 **THE COURT:** You can tell me how you're living, okay,
2 when your time comes.

3 **MR. SEARS:** Can I use the pictures to enforce that?

4 **THE COURT:** They're not evidence. You can -- I won't
5 consider them as evidence. You can show me them, but it's not
6 evidence so I can't consider -- I can only consider what's been
7 testified to, okay?

8 Ms. Mani?

9 **CLOSING ARGUMENT ON BEHALF OF GOVERNMENT**

10 **BY MS. MANI:** Thank you, your Honor. Your Honor, the
11 evidence has shown today that Defendant has violated the law.
12 He camped outside a designated area and he failed to follow a
13 lawful order. The evidence shows that Defendant was camping.
14 He was found around -- late at night, it was dark, he was
15 sleeping in a sleeping bag, he had equipment all around the
16 area, the stove, dishes, his saddle bags, his mules in the
17 area, and he also had food. It is clear from this evidence
18 that Defendant was planning to stay for the night and not
19 simply resting. He also knew that this was not a designated
20 campsite. Defendant testified himself that he has walked past
21 campgrounds and he knows what they look like. He's seen the
22 picnic tables, he's seen the motor homes, he's seen the signs.
23 And based on this, Defendant should have known that the area he
24 was staying in was not a designated campsite. Furthermore,
25 Defendant testified that he crossed a fence and it was a broken

1 down fence. It was -- he did not enter through the main
2 entrance of the administrative road which had a sign that said
3 "no camping." Ranger Bishop has also testified to the fact
4 that he observed all the tack and gear that was in the area
5 that Defendant was sleeping in, that Defendant was sleeping in
6 his bag -- sleeping in his sleeping back when he found -- when
7 he was first discovered. Next we must show that Defendant
8 refused to follow a lawful order. The evidence shows that
9 Mr. Sears clearly refused to follow this order when it was
10 given to him multiple times. When Ranger Bishop first
11 approached Defendant, he asked Defendant to leave the area
12 because it was not an area in which he could stay. Defendant
13 refused. Next, Defendant started to act out. He raised his
14 voice, he started moving his hands in such a way that Ranger
15 Bishop decided that he needed to detain the Defendant. Even
16 after the Defendant was detained, Ranger Bishop tried to find a
17 way for the Defendant to cooperate. He called the state park
18 and asked if there was any way -- if there was any options to
19 get the Defendant to stay somewhere in a nearby area, and that
20 was the Danielson Ranch. The Danielson Ranch was a perfect
21 place for Defendant to go to. They had an equestrian center
22 for the mules and a place for the Defendant to stay. However,
23 Defendant still refused to leave. He said in his own words,
24 "Wherever I lay my head, I will stay." Defendant also
25 mentioned that he was walking all day, that he was tired, that

1 this was -- that he decided that he needed to rest for the
2 night. He -- it was necessary for him to stop, sleep, and rest
3 his bones and get up in the morning to leave. Based on all
4 this evidence, it shows that Defendant was camping outside a
5 designated site and he also refused to abide by a lawful order.
6 The Government asks that, based upon this evidence, you find
7 the Defendant guilty of camping outside a designated area and
8 not following a lawful order.

9 **THE COURT:** Thank you, Ms. Mani.

10 **MS. MANI:** Thank you.

11 **THE COURT:** Mr. Sears, now is your chance to make
12 your closing argument, okay?

13 **MR. SEARS:** All right, sir.

14 **THE COURT:** Again, if you could go back to the
15 podium, though.

16 **CLOSING ARGUMENT ON BEHALF OF DEFENDANT**

17 **BY MR. SEARS:** All right, your Honor, the Government
18 attorney said I knew it was a -- it was not a campsite. I did
19 not know that, absolutely did not know that. There was no
20 signage informing me one way or another. There was no signage
21 -- as far as I knew, it was private property. There was no
22 signage at all anywhere. I came into the place, I walked along
23 this road, as the evidence -- the picture shows -- I don't have
24 that now, do I? The aerial view?

25 **THE COURT:** They're up here but I've seen them.

1 They're up here.

2 **MR. SEARS:** The aerial view, I walked along that road
3 which borders the land that I entered for, you know, for a
4 quarter of a mile or to a half a mile. There's absolutely no
5 signs indicating it's National Park land, there's no signs
6 indicating it's state land, there's no signs indicating it's
7 private property. I did not know that it was National Park
8 land. And when I entered it, a campsite was really not in the
9 context of the situation. I wasn't looking for a campsite. I
10 didn't know it was National Park land. A designated campsite,
11 no camping here, no camping there. I didn't know I was on
12 National Park land. There's nothing -- no signage to tell me
13 that I was. So I wasn't thinking in that venue at all. As to
14 the order to leave, orders to leave, orders to jump off
15 bridges, orders to put a gun to your head and kill yourself,
16 they have to be based on -- they have to be put in a context of
17 practicality. If somebody walks up to me and tells me to blow
18 my brains out, I don't do it because it's not based on any
19 practical -- who would do something like that. And so this
20 order was based on the fact that when I entered, I knew I was
21 entering National Park land, I knew I was camping illegally.
22 None of that I knew. And so the order is somewhat skewed in
23 that context. And then the Danielson Ranch, it's not -- I get
24 the impression that it is not a park, it's not a state park.
25 It's a private-run facility. That, as I said before, private

1 property is not a venue of which we're interested in using.
2 We're -- we have a right to public space. These park lands
3 belong to people. The park service could have been flexible.
4 They didn't need to come in with officers armed with guns.
5 They could have done it with a ranger with a flashlight. It
6 could be handled a lot differently. And as far as me waving my
7 hands and talking loud, I get nervous, my voice automatically
8 goes up. It wasn't intended to be threatening. And the same
9 with waving the hands, it's -- you get nervous and you try to
10 calm yourself in many ways according to how you are. And I
11 made no threats to the officers and I made no physical threats
12 at all, so -- and then they sat me down on my pack box and
13 handcuffed me, which was totally unnecessary. Yeah, so I
14 didn't know that I was on National Park land. There was
15 nothing to indicate I was. I had no idea I was. As far as I
16 knew, I was on some piece of private property that was not
17 signed, no trespassing signs were there, the fence was down.
18 It was obvious people had gone in there before, and so I went
19 in there to spend the night. And as far as camping, if you
20 look in the dictionary and look at the definition of camping,
21 "the activity of spending a vacation living in a camp, tent, or
22 camper." None of that I was doing. I put my sleeping bag on
23 the ground, I laid down on the ground, and I put my gear on the
24 ground to take a rest for the night, and my full intention as I
25 informed the arresting officers was to leave in the morning.

1 They -- and, as a matter of fact, they didn't make the final
2 decision that I could or I couldn't. They checked with their
3 superiors and they checked with their superiors and the
4 superiors said no dice, no deal, go to jail, so I went to jail.
5 Either leave or go to jail, so I went to jail. Yeah, and I
6 don't -- camping is, you know, you put up some kind of a
7 temporary structure with the intention to stay there. You go
8 back in the olden days when camps were made. There are various
9 kinds of camps: fishing camps, hunting camps, trading camps.
10 They established these camps, they stopped, they put their gear
11 down to engage in an activity for an extended period of time.
12 We don't do that. We simply stop there for the night to take a
13 rest and get some sleep. And the park service should -- it
14 needs to be flexible, and it can be if it so chooses. It
15 doesn't need to prevent people from using their land to go to
16 sleep for the night and leave in the morning, put them in jail
17 for doing that. And as far as dangerous conditions for the
18 mules, if those were dangerous conditions for the mules, then
19 any place on this earth is a dangerous place for a mule. I can
20 put a mule in a stall and then go to a veterinarian and they --
21 I can get testimony from any veterinarian to a number of times
22 that they have gone to the aid of a horse that has injured
23 itself in a stall. Injuries -- that's part of life on this
24 earth. It happens all the time. It happens in automobiles,
25 about a hundreds of thousands every year. We were in a most --

1 in that context in a most safe place. The chances of the mules
2 being injured were miniscule compared to the chance to other
3 venues who are injured, such as the automobile use. It's a
4 bloody, bloody mess. So that's the context of that statement.
5 That's it, your Honor. I rest my case.

6 **THE COURT:** Thank you, Mr. Sears. You can sit down.
7 Really?

8 **MS. MANI:** Yes.

9 **THE COURT:** All right, very briefly, Ms. Mani.

10 **MS. MANI:** Okay. Your Honor, this is a general
11 intent crime. Defendant just has to knowingly camp in an
12 undesignated area. Defendant knew it was not a designated
13 campsite. He did not have to know it was on National Park
14 land.

15 **THE COURT:** Are you saying he didn't have to know it
16 was not a designated campsite either? If it's general intent.

17 **MS. MANI:** Yes.

18 **THE COURT:** So you're saying that --

19 **MS. MANI:** He --

20 **THE COURT:** -- even if he did not know it was not a
21 designated campsite is irrelevant.

22 **MS. SPEAKER:** No, no.

23 **MS. MANI:** It is a general intent crime. Defendant
24 just has to knowingly camp in an undesignated area.

25 **MS. SPEAKER:** He has to know that he's camping in an

1 undesignated area.

2 **THE COURT:** He has to know he's camping. Does he
3 have to know that it's an undesignated area?

4 **MS. SPEAKER:** Yes.

5 **THE COURT:** Okay, thank you.

6 **MS. MANI:** Thank you, your Honor.

7 **THE COURT:** Okay.

8 **MR. SEARS:** Do I get any kind of rebuttal on that,
9 your Honor?

10 **FINDINGS/RULING**

11 **THE COURT:** No, you don't. They have what's called
12 the burden, so that's it. Okay, thank you, both sides, for the
13 presentation of the case.

14 I've listened carefully to the testimony and reviewed
15 both regulations under which Mr. Sears was charged, that is, 36
16 CFR 2.10(a)(10), camping outside of a designated area or site;
17 and 2.32(a)(2), violating a lawful order of a government
18 employee.

19 Mr. Sears, I find that you are in violation of both
20 of these regulations. Some of the evidence really isn't all
21 that relevant to whether you are in violation or not. For
22 example, whether or not they told you about this Daniels (sic)
23 Ranch, whether you believed them, whether they made the call is
24 sort of irrelevant. It's relevant to whether they tried to do
25 the right thing when they encountered you and tried to find you

1 another location. But it's not relevant to the issue of
2 whether -- where you were located. And I find that you were
3 camping at that location, where it was outside of a designated
4 campsite, which it was. They told you to leave. That was a
5 lawful order which was given during an activity where the
6 control of public movement and activities is necessary to
7 maintain order and safety. They were allowed to do that. Once
8 they told you that you couldn't be there, whether you knew it
9 beforehand or not, at that point you certainly knew it. And
10 unfortunately I don't get to consider whether you felt it was a
11 good idea for you to leave the site at that point or not. It
12 would be nice if all these spots were locations where we could
13 all camp and be and not have to worry about have we paid the
14 fee, have we done this and that and the other thing. But
15 they're all -- all these regulations are there for a reason, so
16 that people who are not as diligent as you in maintaining the
17 environment and maintaining the locations that you camp at can
18 be kept in control.

19 **MR. SEARS:** Yes, do I have anything to say here?

20 **THE COURT:** I'm going to -- you'll have a chance in a
21 moment, okay? So I am finding that you're in violation of both
22 of these regulations. And the question is then what sort of
23 sentence I impose. And I'm going to give you a chance to
24 address that. I do have to find -- impose a \$10 assessment and
25 a \$25 processing fee. So that's 35 bucks that I have to

1 impose. I am planning on -- unless the Government feels
2 strongly about it -- I'm planning on finding that the fact that
3 you were arrested, that you were taken off, that you had to
4 spend at least part of a night in jail, is sufficient penalty
5 to account for both of these violations. So I'm planning on
6 just imposing a \$35 total assessment and processing fee. And I
7 would give you time to pay that, meaning a few months to pay
8 that, if necessary.

9 So I'm going to give you the chance to address that
10 now. You also -- and I'll indicate this now and again in a bit
11 -- if you feel that you want to appeal this conviction and the
12 sentence, you have a right to do that. You have to file a
13 notice of appeal with the Clerk of the Court within 14 days of
14 today's date. So if you want to take this to the next level,
15 you certainly can. All right, so that's my findings and my
16 proposed sentence. And now if you have something to say, I'm
17 happy to listen.

18 **MR. SEARS:** Well, your Honor, you made the statement
19 that it's unfortunate I'm diligent and careful but others are
20 not and these rules are made to control others. That argument
21 -- I always refer back to the automobile. I'm in contact with
22 it all day long, the noise of the thing is outrageous. It's in
23 my ears, it's coming at me at 60 plus miles an hour two and
24 three feet away constantly all day, so I always refer back to
25 it. The automobile commits crimes every day. It kills, maims,

1 and injures hundreds of thousands of people across this
2 country. And so when they deal with the automobile, when
3 authorities deal with the automobile, they go after the drunk
4 driver as an individual. They go after the person under the
5 influence as an individual. They don't go after everybody.
6 They don't say, well, it's too bad this guy, this drunk driver,
7 killed the whole family and a bunch of children driving
8 irresponsibly under the influence of alcohol, therefore we're
9 going to yank you all out of your cars and take them away.
10 They don't do that. They go after the individual. And that's
11 not being done here. They're using me -- they're going after
12 me. I'm very responsible. I live with my mules. This way of
13 life is sacred really. It's been here for thousands --
14 hundreds of thousands of years, this way of life we live. We
15 consider it sacred. And to deny us the right to sleep is a
16 bullet to our head. This is not a petty case. This is an
17 important case for us. To deny us the right to go to sleep on
18 public space is a bullet to the head. And the National Park
19 Service is about the open spaces, about human beings relating
20 to those spaces in the old ways naturally; not driving in in
21 \$300,000 motor homes and having parties. And instead, these
22 laws and regulations are going after this old, sacred way of
23 life, this much respected way of life. And that has to be
24 addressed, it has to be continually addressed because it's not
25 -- it's going to be wiped out. And our ability to be human

1 beings is disappearing fast. We're being closed up in these
2 buildings. We spend most of our time in buildings and
3 automobiles in this manmade inside world. And it's not a place
4 -- it's a place, but it's not a place to be all day every day.
5 You have to be with nature to survive, to want to live. We all
6 need it, and it's disappearing very fast.

7 **THE COURT:** Thank you, Mr. Sears. I appreciate your
8 sentiments. And I think that you're right, I think there has
9 to be a balance between what's permitted when the rangers are
10 doing and performing their lawful functions because they're
11 trying to protect the environment as well. We want to make use
12 of it as much as possible, and there needs to be a proper
13 balance. The legislature tries to do that. If the laws are
14 not to people's liking, unfortunately it's up the legislature
15 to change the rules. But under the regulations as they exist,
16 I've made my ruling.

17 **MR. SEARS:** All right, sir. Thank you.

18 **THE COURT:** Anything as to the sentence, Ms. Mani?

19 **MS. MANI:** Yes, your Honor. Just that need to impose
20 the \$35 special assessment and processing fee on both
21 citations, on each citation.

22 **THE COURT:** Yeah, I'm not going to do that. I'm
23 going to find in the circumstances, both financial and the
24 circumstances of the case, I'm just going to impose it on one,
25 so it's a total of \$35 that's due. And, Mr. Sears, I'm going

1 to make that payable to the Clerk of the Court -- oh, I'm
2 sorry, make that payable to the Clerk of the Court no later
3 than February 28 of 2015, so that gives a little over three
4 months. Okay? All right, thank you very much.

5 **MS. MANI:** Thank you, your Honor.

6 **THE COURT:** Thank you.

7 **MR. SEARS:** Thank you, your Honor.

8 **THE COURT:** And, again, you have the right to appeal,
9 notice of appeal has to be filed with the Clerk of the Court
10 within 14 days of today.

11 **MR. SEARS:** Clerk of the Court. And what's the
12 identifier for the particular Clerk of the Court?

13 **THE COURT:** My courtroom deputy will give you all
14 that information, okay? All right, thank you very much.

15 **MR. SEARS:** Thank you.

16 **MS. MANI:** Thank you.

17 **(This proceeding was adjourned at 10:43 a.m.)**

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CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

October 30, 2009

Signed

Dated

TONI HUDSON, TRANSCRIBER