

No. 15-5199

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES ASSOCIATION OF REPTILE KEEPERS, INC.;
BENJAMIN RENICK; MATTHEW EDMONDS; RAUL EDUARDO
DIAZ, JR.; and CAROLINE SEITZ,

Plaintiffs-Appellees,

v.

SALLY JEWELL, in her official capacity as Secretary of the Interior;
and UNITED STATES FISH AND WILDLIFE SERVICE,

Defendants-Appellants,

On Appeal from the United States District Court
for the District of Columbia, Case No. 13-2007
Honorable Randolph D. Moss, U.S. District Court Judge

**FEDERAL DEFENDANTS-APPELLANTS'
STATEMENT OF ISSUES TO BE RAISED**

Plaintiffs-Appellees United States Association of Reptile Keepers, Benjamin Renick, Matthew Edmonds, Raul Eduardo Diaz Jr., and Caroline Seitz (collectively “Plaintiffs”), challenged rules promulgated by the U.S. Fish & Wildlife Service (“the Service”) that prohibited the importation and interstate transportation of certain species of constricting snakes under the Lacey Act, 18 U.S.C.

§ 42(a)(1). *See* 77 Fed. Reg. 3330 (Jan. 23, 2012); 80 Fed. Reg. 12702 (Mar. 10, 2015). Under § 42(a)(1), species listed as “injurious” cannot be imported or transported “between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States” without a permit from the Service. 18 U.S.C. § 42(a)(1).

On April 1, 2015, Plaintiffs filed an Application for a Temporary Restraining Order, which the parties and the district court agreed to treat as a motion for a preliminary injunction, seeking to enjoin implementation of the Service’s 2015 Rule. On May 12, 2015, the district court issued a Memorandum Opinion granting in part Plaintiffs’ motion for a preliminary injunction, finding that Plaintiffs’ were likely to succeed on the merits of their claim that the Lacey Act was not intended to prohibit interstate transport of injurious species. After the parties submitted supplemental briefing on the appropriate scope of the injunction, on May 19, 2015, the district court issued another Memorandum Opinion and Order enjoining implementation of the prohibition

against the transportation of reticulated pythons and/or green anacondas between any State other than Texas or Florida.

The issue to be presented on appeal is whether the district court erred in finding that Plaintiffs were likely to succeed on their claim that the Service lacked authority under 18 U.S.C. § 42(a)(1) to prohibit the transport of injurious wildlife between states that are within the continental United States.¹

Respectfully submitted,

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DJ # 90-8-4-07644

¹ The issues actually raised on appeal, if any, are subject to authorization by the Solicitor General of the United States. *See* 28 C.F.R. § 0.20(b).

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system, which will serve the document on the other participants in this case.

/s/ Emily A. Polachek
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