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FEATURED

Six years after park ranger fatally shot Montrose man, a family fights on

Katharhynn Heidelberg | katharhynnh@montrosepress.com

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Family members of Gage Lorentz, the Montrose man fatally shot by a park ranger in New Mexico, gather downtown on April reforms. (Courtesy photo/Kimberly Beck)

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In March, six years had passed since Kimberly Beck got the call that sent her to her knees, screaming in anguish. Her son, Charles “Gage” Lorentz, 25, had been fatally shot by a New Mexico park ranger at Carlsbad National Park, after he had been pulled over for speeding.

What happened that day in 2020 is disputed: the ranger said he fired in self-defense as Lorentz tried to take his gun, while Lorentz’s parents said the ranger, Robert Mitchell, had no legal justification for shooting their son, and made no attempt to de-escalate before opening fire and striking Lorentz twice.

Beck, with Lorentz’s father, Travis Lorentz, filed a lawsuit, from which the ranger recently was dismissed. They’ve held annual marches in downtown Montrose to keep their son’s name alive, and draw attention to qualified immunity for federal officers, a concept that generally shields officers from civil liability in discharging their duties. Lately, Beck has been writing to lawmakers, hopeful of bringing about change and reforms.

Six years since Gage’s death is long enough, she said: it is time for the federal case to proceed against its remaining defendants.

“We’re not giving up, it’s just, what can you do until you have something in front of the judge? Eventually, I would like it to go somewhere,” Beck said in March, a few weeks before family members carried signs demanding justice down Main Street on April 4.

“It’s been six grueling years,” the family’s attorney Shannon Kennedy said. “I can’t imagine the anguish of losing a child. It’s just awful what the parents of Gage Lorentz have endured.”

The family filed suit in late 2020, initially alleging civil rights violations against Mitchell, and also accusing the United States Department of the Interior, the parent agency of the National Park Service, of battery/false imprisonment and negligence in Gage’s death.

The latter two claims remain; however, the claims against Mitchell were dismissed on March 27. U.S. District Judge Martha Vazquez found that there is no legal remedy the family can pursue against him in federal court.

The Lorentz family had sued Mitchell on allegations that he violated Gage’s Fourth Amendment rights by using excessive force resulting in death; Mitchell, through attorneys, argued there was no remedy under controlling caselaw established in a 1971 case, *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, and the 2002 case, *Egbert v. Boule*.

The *Bivens* case did hold that a person claiming to have been unlawfully arrested or searched could bring a claim against the responsible agent, despite there not being a federal statute authorizing such a claim. The Supreme Court extended *Bivens* to apply to two other constitutional claims, one arising from the Fifth Amendment and the other, from the Eighth.

However, these cases are the only three in which the high court “has approved of an implied damages remedy under the Constitution itself,” Vazquez wrote March 27, quoting previous rulings. Expanding the Bivens finding is “disfavored,” and “an action that is impermissible in virtually all circumstances,” Vazquez said, again quoting previous rulings, one of which noted the Supreme Court had declined in 11 other instances to imply a similar cause of action as was allowed in Bivens.

“In the instant case, plaintiffs’ complaint asks the court to devise a Bivens remedy in a new context, namely, a shooting by a park ranger,” Vazquez said. The court had to consider factors including whether there was an alternative remedy the Lorentz family might pursue. She cited the Federal Tort Claims Act, which allows for certain actions arising from acts or omissions by federal law enforcement. The Lorentz family had in fact brought two such claims in its complaint, and Vazquez found that the court could not allow the claims against Mitchell to proceed.

“Because the court cannot create a judicially fashioned remedy for plaintiffs, the complaint does not state a claim for relief against Defendant Mitchell.” Accordingly, she granted the motion to dismiss Mitchell, noting also that the plaintiffs’ counsel had conceded that there is no legal remedy under the Bivens case. The plaintiffs had already voluntarily dismissed the second claim against Mitchell, that he violated Gage’s Fourth and Fifth Amendment rights by failing to render medical aid after the shooting.

With no claims remaining against Mitchell, the motion for summary judgment he and the government sought was dismissed as moot, with respect to Mitchell.

Vazquez is to address the government's motion for summary judgment on the remaining counts separately, as well as the plaintiffs' motion for summary judgment.

Kennedy in a January request for a status conference and pretrial scheduling said six years of uncertainty for the family, on top of grief, is long enough. "The Beck/Lorentz family seek to honor Gage's memory by fighting for justice. Without the psychological closure that finality in adjudication provides, mourners remain trapped between hope and despair, unable to integrate Gage's death into a coherent life narrative — and process essential for healthy grief resolution," Kennedy wrote. "... The Beck/Lorentz family's loss is not only personal, but also emblematic of a broader historical and systemic pattern of state violence and legal helplessness and betrayal."

Kennedy conceded the plaintiffs cannot pursue a Bivens claim against Mitchell, and said that concession has turned a complex motion that centered on qualified immunity for federal officers into "a relatively simple analysis of battery and negligence claim under New Mexico law and adjudication of the facts by the court without a jury, pursuant to the Federal Tort Claims Act."

Per a federal magistrate's 2022 ruling, pretrial deadlines were to be set once the presiding judge resolved remaining dispositive motions. A scheduling conference would be efficient and conserve judicial resources, while tailoring the schedule for a bench trial increases clarity and fairness, Kennedy said, asking for a firm bench trial date and related pretrial conference.

At the time, too many pending motions remained, the government said in its response, noting that pending rulings could either result in a dismissal or the action, or narrow the issues for trial. “The present motion is putting the proverbial cart before the horse,” Assistant U.S. Attorney Roberto D. Ortega wrote on Jan. 30.

Since these filings, Vazquez ruled on the claims against Mitchell and agreed they should be dismissed. Her ruling on Kennedy’s motion for pretrial settings is pending, as are rulings on motions for summary judgment the plaintiffs and the government have filed.

Beck is still fighting. She’s spent years writing federal lawmakers for change; most recently, sending a letter to Sen. Cory Booker, D-New Jersey, who is sponsoring the Federal Law Enforcement Standards and Accountability Act. The legislation seeks to establish enforceable minimum standards for federal law enforcement hiring, training, and suitability assessments for federal law enforcement personnel. Booker in announcing the legislation cited the fatal shootings of Renee Good and Alex Pretti by federal immigration officers earlier this year in Minnesota.

“As a mother, I am paralyzed watching the news and witnessing yet more killings by federal agents. I continue this journey seeking change in my son’s honor. I am unable to comprehend why the federal agents are not held to the same standards as the state and local law enforcement agencies. Should the federal agents not be leading by example? The training officers receive tends to foster a ‘warrior mindset,’ and I think they operate without hesitation when it comes to using lethal force because of outdated laws surrounding qualified immunity,” Beck wrote to Booker.

“The Federal Law Enforcement Standards and Accountability Act (FLESA) would support the much-needed change for federal law enforcement training and provide this mother with a sense of hope that other families will not have to endure the never-ending nightmare of seeking justice for a life taken unjustly.”

Beck also issued a statement following the April 4 memory march. In it, she detailed how years of outreach to senators, representatives, the Interior Department and two presidential administrations have passed without a response.

“The justice system needs reform, and only federal-level changes can create meaningful, lasting improvements. One might wonder how many lives could have been saved if such reforms had taken place earlier before the deaths of more citizens at the hands of federal agents,” Beck said.

“Six years have passed, but our son's life will always hold significance. I refuse to give up, and I continue to stand firm in my belief that change will be made in his memory. Gage is worthy of the justice he deserves. Gage's life mattered and he will never be forgotten.”

Kennedy said the years-long struggle has been heartbreaking to witness. “I can't imagine, as a parent, enduring that kind of pain.”

Katharhynn Heidelberg is the Montrose Daily Press assistant editor and senior writer. Follow her on Twitter, @kathMDP.

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Katharhynn Heidelberg

Assistant Editor and Senior Writer