

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KARLEEN CRYSTAL LINFORD,

Plaintiff - Appellant,

v.

UNITED STATES OF AMERICA,

Defendant - Appellee,

No. 15-35758

D.C. No. 4:13-cv-00194-BLW

MEMORANDUM*

Appeal from the United States District Court
for the District of Idaho
B. Lynn Winmill, Chief District Judge, Presiding

Submitted June 9, 2017**
Portland, Oregon

Before: GOULD and RAWLINSON, Circuit Judges, and RAYES, District Judge.***

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Douglas L. Rayes, United States District Judge for the District of Arizona, sitting by designation.

Karleen Linford appeals the district court's grant of summary judgment to the United States in this Federal Tort Claims Act case. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the grant of summary judgment de novo, *Szajer v. City of Los Angeles*, 632 F.3d 607, 610 (9th Cir. 2011), viewing the evidence in the light most favorable to Linford to determine whether any triable issue of fact exists and whether the district court correctly applied the relevant law, *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). We affirm.

Linford asserted a negligence claim arising out of injuries she sustained while riding an all-terrain vehicle across a cattle guard on national forest land in Idaho. There is no dispute that, absent willful and wanton conduct, the United States is entitled to immunity under Idaho's recreational use statute, Idaho Code § 36-1604(d), because it allowed Linford to use the national forest land for recreational purposes without charge. There is no genuine issue of material fact as to whether the United States engaged in willful and wanton conduct. The Forest Service's construction and maintenance of the cattle guard constitutes, at most, mere negligence.

The district court did not err in granting summary judgment.

AFFIRMED.