

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE, NASHVILLE DIVISION

Tennessee Riverkeeper, Inc. v. Ricky Ray

Tennessee Riverkeeper v. Ray · No. 3:23-cv-00878 · Decided January 28, 2026

SUMMARY

The court denied Tennessee Riverkeeper, Inc.’s motion to alter or amend the judgment or, alternatively, for a new trial under Federal Rule of Civil Procedure 59. The court held that Riverkeeper failed to prove a pollutant discharge necessary to support its Clean Water Act claim and had forfeited its open-dumping theory under the Resource Conservation and Recovery Act. The court also upheld the application of Tennessee’s permitting exemption based on the jury’s factual findings regarding the landfill and its fill material.

CASE DETAILS

COURT	United States District Court for the Middle District of Tennessee, Nashville Division
WRITING FOR THE COURT	Waverly D. Crenshaw Jr.
JURISDICTION	United States District Court for the Middle District of Tennessee, Nashville Division
DECIDED	January 28, 2026
DOCKET	3:23-cv-00878
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved under Federal Rules of Civil Procedure 59(e) and 59(a)(1)(A) to alter or amend the judgment or, alternatively, obtain a new trial after the court granted defendant judgment as a matter of law on the Clean Water Act claim and entered judgment for defendant on the RCRA permitting claim. The court denied the motion.
STANDARD OF REVIEW	Rule 59(e) relief is an extraordinary remedy available for clear error of law, newly discovered evidence, an intervening change in controlling law, or manifest injustice; the district court has considerable discretion. A Rule 59(a)(1)(A) new-trial motion is evaluated for a seriously erroneous result, including a verdict against the weight of the evidence, excessive damages, or an unfair trial, and is also committed to the district court's discretion.

PRECEDENTIAL VALUE	unpublished
PARTIES	Tennessee Riverkeeper, Inc. v. Ricky Ray

TOPICS

clean water act rcra motion for reconsideration motion for new trial civil procedure

PRACTICE AREAS

environmental law civil procedure administrative and regulatory law

QUESTIONS PRESENTED

1. Whether the court clearly erred by requiring Riverkeeper to prove a pollutant discharge to prevail on its Clean Water Act claim.
2. Whether the court clearly erred in determining that Riverkeeper presented insufficient evidence of a pollutant discharge.
3. Whether the court clearly erred in applying Tennessee's permitting exemption to the RCRA landfill-permitting claim.
4. Whether Riverkeeper was entitled to a new trial because the Clean Water Act claim was not submitted to the jury.
5. Whether the court improperly allowed the jury to decide the legal applicability of the Tennessee permitting exemption.

HOLDINGS

1. Riverkeeper could not obtain relief on its Clean Water Act claim without threshold proof of a pollutant discharge into navigable waters. In addition, Riverkeeper forfeited any theory not included in the final pretrial order, and its pretrial theory expressly required proof that Ray discharged pollutants in violation of the NPDES permit.
2. Riverkeeper failed to present sufficient evidence that the muddy water shown in its photographs and videos contained a Clean Water Act pollutant. The court therefore properly granted Ray judgment as a matter of law and denied Rule 59(e) relief.
3. The court did not clearly err in applying Tenn. Comp. R. & Regs. 0400-11-01-.02(1)(b)(3)(xiii) to exempt Ray's site from the landfill-permit requirement after the jury found that the site used solely the listed fill materials.
4. Riverkeeper was not entitled to a new trial under Rule 59(a)(1)(A). The court properly withheld the unsupported Clean Water Act claim from the jury, and the court—not the jury—decided the legal applicability of the Tennessee permitting exemption.

KEY QUOTATIONS

“By asserting this theory in the Pretrial Order as the sole basis for its Clean Water Act claim, Riverkeeper forfeited its new legal argument that Ray is liable on Count One even without proof that he discharged a pollutant.” (at 8)

“Riverkeeper had the burden to show that a pollutant, rather than some other material, was the “something” that made the water muddy.” (at 10)

FACTUAL BACKGROUND

Riverkeeper alleged that Ray operated a construction and demolition site in violation of an NPDES permit and RCRA permitting requirements. At trial, Riverkeeper presented witnesses, photographs, and videos depicting water flowing from the site, but no witness identified a specific pollutant in the muddy water. The jury found that the site was a Class IV construction and demolition landfill and that it used solely natural rock, dirt, stumps, pavement, concrete, rebar, and/or brick rubble as fill material. Based on those findings, the court applied Tennessee's regulatory permitting exemption.

PROCEDURAL HISTORY

Tennessee Riverkeeper brought citizen-suit claims under the Clean Water Act and RCRA. The court granted Ray judgment as a matter of law under Rule 50(a) on the Clean Water Act claim because Riverkeeper presented no evidence of a pollutant discharge. The RCRA permitting claim went to the jury, which found that the site was a Class IV construction and demolition landfill and used solely for specified fill materials; the court then ruled that the Tennessee permitting exemption applied and entered judgment for Ray. Riverkeeper voluntarily dismissed its separate open-dumping claim and then sought post-judgment relief under Rules 59(e) and 59(a).

DISPOSITION

other

CASES CITED

- County of Maui, Hawaii Wildlife Fund, 140 S. Ct. 1462, 1468 (2020)
- Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc., 528 U.S. 167, 174-78 (2000)
- Natural Resources Defense Council, Inc. v. EPA, 822 F.2d 104, 108 (D.C. Cir. 1987)
- Meghrig v. KFC Western, Inc., 516 U.S. 479, 483 (1996)
- Abbas v. Truist Bank, 2025 WL 1287906, at *2 (M.D. Tenn. May 2, 2025)
- ACLU of Kentucky v. McCreary County, Kentucky, 607 F.3d 439, 450 (6th Cir. 2010)
- Leisure Caviar, LLC v. U.S. Fish & Wildlife Service, 616 F.3d 612, 615 (6th Cir. 2010)
- Jones v. Select Portfolio Servicing, Inc., 672 F. App'x 526, 530 (6th Cir. 2016)
- Sault Ste. Marie Tribe of Chippewa Indians v. Engler, 146 F.3d 367, 374 (6th Cir. 1998)
- Exxon Shipping Co. v. Baker, 554 U.S. 471, 486 n.5 (2008)
- United States v. Tennessee Walking Horse Breeders' and Exhibitors' Association, 263 F. Supp. 3d 679, 681 (M.D. Tenn. 2017)

- *Lonardo v. Travelers Indemnity Co.*, 706 F. Supp. 2d 766, 809 (N.D. Ohio 2010)
- *Oto v. Metropolitan Life Insurance Co.*, 224 F.3d 601, 606 (7th Cir. 2000)
- *Dorger v. Allstate Insurance Co.*, 2009 WL 2136268, at *1 (E.D. Ky. July 16, 2009)
- *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005)
- *Ordos City Hawtai Autobody Co., Ltd. v. Dimond Rigging Co., LLC*, 695 F. App'x 864, 875 (6th Cir. 2017)
- *Gregory v. Shelby County, Tennessee*, 220 F.3d 433, 442-43 (6th Cir. 2000)
- *Epazz, Inc. v. National Quality Assurance USA, Inc.*, 2021 WL 3808946, at *8 (6th Cir. Aug. 26, 2021)
- *Slinger v. Pendaform Co.*, 2022 WL 2133745, at *3 (6th Cir. June 14, 2022)
- *Gorlikowski v. Tolbert*, 52 F.3d 1439, 1443-44 (7th Cir. 1995)
- *City of Memphis v. Horn Lake Creek Basin Interceptor Sewer District*, 693 F. Supp. 3d 839, 867 (W.D. Tenn. 2023)
- *Inland Empire Waterkeeper v. Corona Clay Co.*, 17 F.4th 825, 831, 836 (9th Cir. 2021)
- *Waterkeeper Alliance, Inc. v. U.S. EPA*, 399 F.3d 486, 505-06 (2d Cir. 2005)
- *Okanogan Highlands Alliance v. Crown Resources Corp.*, 544 F. Supp. 3d 1092, 1096-97 (E.D. Wash. 2021)
- *City of Highland Park, Michigan v. Environmental Protection Agency*, 817 F. App'x 42, 47 (6th Cir. 2020)
- *United States v. Cundiff*, 555 F.3d 200, 213 (6th Cir. 2009)
- *Southern Road Associates v. International Business Machines Corp.*, 216 F.3d 251, 255 n.3 (2d Cir. 2000)
- *EEOC v. New Breed Logistics*, 783 F.3d 1057, 1066 (6th Cir. 2015)
- *Snodgrass-King Pediatric Dental Associates, P.C. v. DentaQuest USA Insurance Co., Inc.*, 295 F. Supp. 3d 843, 867 (M.D. Tenn. 2018)
- *Montgomery County School System v. U.S. Gypsum Co.*, 925 F.2d 993, 1002 (6th Cir. 1991)
- *Bell v. Johnson*, 404 F.3d 997, 1002 (6th Cir. 2005)
- *Armisted v. State Farm Mutual Automobile Insurance Co.*, 675 F.3d 989, 995 (6th Cir. 2012)

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