

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 17-2473 & 17-3196

KRISTEN GIOVANNI, Individually and as parent and
natural guardian of V.G., a minor, and D.G., a minor;
CHARLES GIOVANNI, Individually and as parent and
natural guardian of V.G., a minor and D.G., a minor;
ANTHONY GIOVANNI,
Appellants in No. 17-2473
and
DOROTHY PALMER; GEORGE PALMER,
Appellants in No. 17-3196
v.

UNITED STATES DEPARTMENT OF THE NAVY

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Nos. 2-16-cv-04873 and 2-17-cv-00765)
District Judge: Hon. Gerald J. Pappert

SUR PETITION FOR PANEL REHEARING

Present: JORDAN, BIBAS, and SCIRICA, *Circuit Judges*.

In its petition for rehearing, the Navy for the first time argues that the Giovannis' and Palmers' claims do not satisfy RCRA's limitation of its waiver of sovereign immunity to claims "respecting control and abatement of solid waste or hazardous waste disposal and management." 42 U.S.C. 6961(a). By failing to raise it, the Navy has forfeited that argument, and we decline to consider it.

It is hereby ORDERED that the petition for rehearing by the panel is denied.

BY THE COURT

s/ Kent A. Jordan
Circuit Judge

DATE: April 18, 2019
Lmr/cc: Mark R. Cuker
Alexandra Manautou
Amy L. Montemarano
Suzanne I. Novak
Jeffery S. Beelaert
Deanna K. Tanner
Kevin S. Hannon
Steven E. Angstreich
Jeffery S. Beelaert