

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA**

JESUS RIVERA
5110 West Fairfield Drive
Pensacola, FL, 32506

And

SIKA MASSAQUOI
7029 Bellaire Ave
North Hollywood, CA 91605

And

GREGORY PURDY, JR,
259 Hortontown Road
Hopewell Junction, NY 12533

And

MATTHEW PURDY
259 Hortontown Road
Hopewell Junction, NY 12533

And

ROBERT TURNER
2900 Hwy 135
Los Alamos, CA 93440

And

JOHN DOES 1 to 100,000

Plaintiffs,

v.

FEDERAL BUREAU OF INVESTIGATION
935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

And

Case Number:

CHRISTOPHER A. WRAY,
c/o 935 Pennsylvania Avenue, NW
Washington, DC 20535-0001

And

UNITED STATES DEPARTMENT OF JUSTICE
c/o 950 Pennsylvania Avenue NW
Washington, DC 20530

And

MERRICK GARLAND
c/o 950 Pennsylvania Avenue NW
Washington, DC 20530

Defendants.

COMPLAINT

Plaintiffs Jesus Rivera (“Plaintiff Rivera”), Siaka Massaquoi (“Plaintiff Massaquoi”), Gregory Purdy, Jr., Matthew Purdy, Robert Turner (“Plaintiff Turner”), and John Does 1 to 100,000 bring this action pursuant to the Foreign Intelligence Surveillance Act (“FISA”) and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) (“*Bivens*”) against the Federal Bureau of Investigation (“FBI”) and Christopher A. Wray (“Wray”), United States Department of Justice (“DOJ”) and Merrick Garland (“Garland”) for violations of constitutional rights on behalf of themselves and the putative class pursuant to Federal Rule of Civil Procedure 23 (collectively “Plaintiffs”).

JURISDICTION AND VENUE

1. This Court has federal question jurisdiction over this case pursuant to 28 U.S.C § 1331.

2. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2), (3) in that a substantial part of the events or omissions giving rise to Plaintiff’s claims arose in this district.

THE PARTIES

A. Plaintiff

3. Plaintiffs are all U.S. citizens.

4. Plaintiff Rivera is an individual, a natural person, who at all material times was and is now a citizen of Florida and resident of Pensacola, Florida.

5. Plaintiff Rivera graduated high school in 2002, being the first of his mother's family to graduate.

6. On December 13, 2002, Plaintiff Rivera graduated Marine Corps boot camp.

7. Plaintiff Rivera served his country in Operation Iraqi Freedom and Operation Enduring Freedom, surviving rocket attacks and attacks from improvised explosive devices (IED's).

8. He was honorably discharged from the Marine Corps in 2012 after 10 years of service.

9. Plaintiff Massaquoi is an individual, a natural person, who at all material times was and is now a citizen of California and resident of North Hollywood, California.

10. Plaintiff Massaquoi is an actor and a former high school football star from the mid-west.

11. Plaintiff Massaquoi continued his football career by playing for the University of Iowa and attending the academic institution on scholarship.

12. Today, Plaintiff Massaquoi is an accomplished and successful actor.

13. Plaintiffs Gregory Purdy, Jr. and Matthew Purdy are citizens of New York and are real estate and housing developers who work in the public interest to provide affordable housing to ordinary Americans, as well as support a number of charities.

14. Plaintiff Turner is a citizen of California and is a plumber and expert in in-house construction residential projects, has a commitment to a family owned farm, and an accomplished businessman.

15. Other as yet unknown Members of the Class are citizens and residents of Florida and are located in and around the 50 states of the United States.

B. Defendants

16. Defendant FBI is a federal agency.

17. Defendant Wray is being sued individually and in his official capacity as the Director of the FBI.

18. Defendant DOJ is a federal agency

19. Defendant Garland is being sued individually and in his official capacity as the Attorney General of the United States.

STANDING

20. The lead Plaintiffs and Members of the Class have standing to bring this action because they have been directly affected, harmed, and victimized by the unlawful conduct of the Defendants complained of herein.

21. Their injuries are proximately related to the conduct of Defendants, each and every one of them, jointly and severally.

FACTS

A. Background Facts

22. A violation of constitutional rights even for brief periods is redressable and damages are presumed.

23. A violation of individual rights gives rise to individual and personal liability by the government official or agent, including but not limited to the Director of the FBI and the

Attorney General of the United States. *See Trulock vs. Freeh, et al*, 275 F.3d 391 (4th Cir. 2001).

24. During December 2020, no later than December 23, 2020, but on information and belief starting much earlier, publicity, marketing, advertising, organizing, and/or recruiting was disseminated throughout the country encouraging U.S. citizens to come to Washington, D.C. on January 6, 2021, for a variety of separate and independent peaceful demonstrations planned for different locations and different times from January 5-6, 2021.

25. On January 6, 2021, persons such as Plaintiffs and Members of the Class – some have estimated as high hundreds of thousands – gathered in Washington, D.C. to exercise their civil and constitutional rights guaranteed under the U.S. Constitution to exercise their expression of free speech (well-established to include both verbally spoken and written speech and also expressive action), to peaceably assemble, and to petition their government for redress of grievances over the 2020 presidential election and government corruption in general.

26. Plaintiffs here all chose to exercise their constitutionally protected right of free travel to come to speak and associate in Washington, D.C., and to participate in the plans for peaceful demonstrations at the U.S. Capitol and the Ellipse near the White House.

27. Like major demonstrations before in Washington, D.C., U.S. citizens numbering as hundreds of thousands by some estimates were 99.95% peaceful and law-abiding.

28. Lead Plaintiffs sue on behalf of and request for the certification of a class, under Federal Rule of Civil Procedure 23, consisting of those who were peacefully protesting in Washington, D.C. on January 6, 2021, but who did not commit any felonies or engage in any violence, but have been subjected to unconstitutional, illegal surveillance by Defendant Wray and his agents in the aftermath.

29. While there were a few people who chose to enter and engage in acts of violence

in the U.S. Capitol, Plaintiffs were not among those involved in any such conduct.

30. All Plaintiffs did was exercise their right to peacefully assemble and protest under the Constitution.

31. After the events of January 6, 2021, Defendant Wray, in an effort to save his own employment and for other improper and unlawful reasons, personally ordered the other Defendants to violate the constitutional rights of countless persons who simply happened to be in the District of Columbia, and elsewhere on January 6, 2021, including Plaintiffs.

32. Defendant Wray's actions set forth in this Complaint were done at the direction of and in concert with Defendant Garland.

33. Thus, Defendant Garland and Defendant Wray are directly and personally involved in the commission of the constitutional violations alleged herein as they pertain to Plaintiffs. Defendant Wray, at the direction of and in concert with Defendant Garland, has made public statements threatening Plaintiffs and other Members of the Class:

"We know who you are if you're out there, and FBI agents are coming to find you."¹

"My advice to people who might be inclined to follow in the footsteps of those who engaged in the kind of activity we saw last week is stay home....look at what's happening now to the people who were involved in the Capitol siege."²

"Our posture is aggressive. It's going to stay that way though the inauguration. So in that vein, we and our partners have already arrested more than 100 individuals for their criminal activities in last week's siege of the Capitol and continue to pursue countless other related investigations."³

The FBI's Agents, analysts, and professionals alongside our partners have been working around the clock to track down those who participated in the attack to hold them accountable, we've already made over 500 arrests, with more sure to come"

¹ <https://www.cnn.com/2021/01/14/politics/fbi-director-wray-us-capitol-suspects/index.html>

² *Id.*

³ *Id.*

"...Over the past 3 years we've doubled our domestic terrorism investigations and arrests. In no small part because of the rise in racially and ethically motivated violent extremists, which I elevated to our highest threat priority level back in 2019, and because of the rise in violence from anti-government anti-authority actors over the past year..."⁴

34. While testifying before Congress, Defendant Wray, at the direction of and in concert with Defendant Garland, stated that mostly white supremacists (racially motivated violent extremists) are the FBI's top priority. "It is our highest threat priority level, commensurate with ISIS...and it is certainly true in the last few years the most lethal attacks here in the homeland have been by individuals in that racially motivated extremist category, specifically for advocating for superiority of the white race."⁵

35. In this regard, Defendant Wray, at the direction of and in concert with Defendant Garland, their agents and assigns, and those acting in concert with them have turned the FBI into what is in effect their own personal "Secret Police" or "Gestapo" to target, arrest and wrongfully prosecute people who were protesting in the District of Columbia on January 6, 2021.

36. As reported by NBC, Defendant Wray, at the direction of and in concert with Defendant Garland, their agents and assigns, and the FBI and DOJ have even resorted to pressuring, and coercing family and friends of protestors to turn them in. "The FBI has been leaning on spouses, siblings, children and former romantic partners who spotted their loved ones assaulting the Capitol and responded by dropping a dime on them."⁶ This is reminiscent of the tactics used by Adolf Hitler's Third Reich prior to and during the Holocaust, when Germans were directed to turn in Jews to the Nazi anti-Semitic government.

⁴ <https://www.youtube.com/watch?v=xBUYTBCqsz0>

⁵ <https://www.courthousenews.com/fbi-treats-white-supremacists-like-isis-except-when-it-doesnt/>

⁶ https://www.nbcnews.com/news/amp/ncna1254597#aoh=16261485808812&referrer=https%3A%2F%2Fwww.google.com&_tf=From%20%251%24s

37. On information and belief, Defendant Wray, at the direction of and in concert with Defendant Garland, their agents and assigns, are doing so at the direction of President Joe Biden and Vice President Kamala Harris and his administration, in an effort to save their own employment as the Directors of the FBI and DOJ, as well as for other improper and nefarious reasons.

38. Yet, Defendant Wray's and Defendant Garland's directives and orders have resulted in the constitutional violations of countless people who did not engage in any criminal activity or violence on January 6, 2021, including Plaintiffs and Members of the Class.

39. On or around May 19, 2023, it was widely disclosed and reported that the FBI, Defendant Wray, at the direction of and in concert with Defendant Garland, and their agents and assigns violated Section 702 of the Foreign Intelligence Surveillance Act in order to deliberately spy upon and illegally gather information on and to use against the January 6 participants to use to indict, charge, try, convict and sentence them, including peaceful and non-violent protesters such as the Plaintiffs herein, including Members of the Class.

40. These violations were first outlined in a secret court order ("the Order") from April 2022 by the Foreign Intelligence Surveillance Court.

41. In 2008, Congress enacted Section 702 of the Foreign Intelligence Surveillance Act, a collection authority that enables the intelligence community to collect, analyze, and appropriately share foreign intelligence information about national security threats. Section 702 authorizes targeted intelligence collection of specific types of foreign intelligence information – such as information concerning international terrorism or the acquisition of weapons of mass destruction – identified by the Attorney General and the Director of National Intelligence.

42. Section 702 only permits the targeting of non-United States persons who are

reasonably believed to be located outside the United States. U.S. persons and anyone in the United States may not be targeted under Section 702. Section 702 also prohibits “reverse targeting” – the intelligence community may not target a non-U.S. person located outside the United States if the purpose of the collection is to collect information about a United States person or anyone located in the United States.

43. Defendants and their agents and assigns, acting together in concert as joint tortfeasors, intentionally abused and illegally used this surveillance tool and violated Plaintiffs’ and Members of the Class’s constitutional rights.

44. The Order details how Defendants and his agents and assigns, used Section 702 to “query” – or search – names of individuals who were even suspected of being on the Capitol grounds during the January 6, 2021 protest. Other illegal searches were also ordered by all Defendants and then carried out by pliant, complicit and corrupted FBI agents.

45. The Order also discusses “three batch queries consisting of approximately 23,132 separate queries” presumed to be Americans. A portion of the Order was then redacted, and it continued, “was being used by a group involved in the Jan. 6 Capitol breach.” Other incidents included separate query batches of 13 and five Jan. 6 suspects; “two queries for a person under investigation for assaulting a federal officer in connection with the Capitol breach;” and a partly redacted discussion of 360 queries in connection with various “domestic drug and gang investigations, domestic terrorism investigations and the Capitol breach.”⁷

46. This has resulted in a violation of Plaintiffs’ rights under the First and Fourth Amendments to the Constitution as well as the Foreign Intelligence Surveillance Act.

CLASS ALLEGATIONS

⁷ See <https://www.nytimes.com/2023/05/19/us/politics/fbi-violated-surveillance-program-rules.html>.

47. Plaintiffs and Members of the Class bring this lawsuit on behalf of the following proposed class (the “class”) consisting of those U.S. citizens who were in the District of Columbia on or about January 6, 2021 to peacefully protest and who did not commit any felonies or engage in any violence, but have been subjected to unconstitutional, illegal surveillance by Defendants Wray and Garland and his agents in the aftermath. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Members of the Class may be expanded or narrowed by amendment or amended complaint.

48. Numerosity. The Members of the class are so numerous that individual joinder is impracticable. Upon information and belief, Plaintiff and the Members of the Class allege that the class contains hundreds if not thousands of Members of the Class. Although the precise number of Putative Class Members is unknown to Plaintiff and the class, the true number of Putative class Members is known by Defendants, and thus, may be notified of the pendency of this action by first class mail, electronic mail, social media, and/or published notice.

49. Existence and predominance of common questions of law and fact. Common questions of law and fact exist as to all Members of the Class and predominate over any questions affecting only individual Putative class Members of the Class. These common legal and factual questions include, but are not limited to, the following:

- a) Unconstitutional searches and seizures of their residences, property, and/or papers.
- b) A failure of probable cause for searches and seizures.
- c) A failure of due process for searches and seizures.
- d) Defendants’ intent to silence, intimidate, and chill the people’s expression of opinions that the Defendants and political establishment and elites do not want to be heard.

e) Gathering legally in the U.S Capitol area on or about January 6, 2021, pursuant to the permission granted through a permit for the gathering apparently issued by the U.S. Capitol Police.

f) The Defendants' attempt to intentionally confuse peaceful protestors who gathered on or about January 6, 2021, in the U.S. Capitol area with the extremely small percentage who are alleged to have committed trespassing, the smaller percentage who are alleged to have committed property damage, and the even smaller percentage who are alleged to have assaulted the Capitol.

g) Handcuffing, frightening, and humiliating persons not charged with any crime during execution of a search warrant for information.

50. Typicality. Plaintiffs' and the class's claims are typical of the claims of the other Members of the Class.

51. Adequacy of representation. Plaintiffs and Members of the Class will fairly and adequately protect the interests of the other Members of the Class. Further, Plaintiff and Members of the Class have had no interests that are antagonistic to those other Members of the Class.

52. Superiority. A class action is superior to all other available means for the fair and efficient adjudication of this controversy. Aside from the intangible deprivation of constitutional rights, the damages or other financial detriment suffered by individual Putative Class Members are relatively small compared to the burden and expense that would be entailed by individual litigation of their claims against Defendant Wray.

CAUSES OF ACTION

FIRST CAUSE OF ACTION ***(Bivens – First Amendment Retaliation)*** **Defendants Wray and Garland**

53. Plaintiffs repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporates them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

54. Defendants Wray and Garland, acting in their official capacity and personally, illegally abridged and violated Plaintiffs' First Amendment right of freedom of speech and association by significantly minimizing and chilling Plaintiffs' freedom of expression and association.

55. Defendants Wray's and Garland's acts chill, if not "kill," speech by instilling in Plaintiffs and over a hundreds of million of Americans the fear that their personal and business conversations and communications with other U.S. citizens and foreigners are in effect tapped and illegally surveyed.

56. Defendants Wray and Garland, acting in their official capacity and personally, illegally violated and continue to violate Plaintiffs' right of freedom of association by making them and others weary and fearful of contacting other persons and entities via cell phone, on the internet, and through social media, in person out of fear of the misuse of government power and retaliation against these persons and entities who challenge the misuse of government power.

57. Defendants Wray and Garland are illegally retaliating against and seeking to further retaliate against Plaintiffs and those similarly situated for their expression of political and ideological viewpoints at the January 6, 2021 demonstrations in Washington, D.C., as well as to compromise ensuring criminal prosecutions of Plaintiffs and Members of the Class.

58. These violations are compensable under *Bivens v. VI Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

59. The actions complained of by Defendants Wray and Garland were violations of the Plaintiffs' constitutional rights, and there are no other adequate remedies at law.

60. By reason of the wrongful conduct of the Defendants Wray and Garland, Plaintiffs have suffered harm in the form of having their First Amendment rights violated, their

personal, business and property rights have been violated, and their freedom of speech and association have been severely comprised and curtailed, as guaranteed to Plaintiffs under the U.S. Constitution.

SECOND CAUSE OF ACTION
(Bivens – Fourth Amendment Violation)
Defendants Wray and Garland

61. Plaintiffs repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporates them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

62. Plaintiffs enjoy the right to be free from unreasonable searches and seizures, as guaranteed by the Fourth Amendment to the U.S. Constitution.

63. The Fourth Amendment to the U.S. Constitution provides in pertinent part that people have a right to be secure in their persons against unreasonable searches and seizures, that warrants shall not be issued but upon probable cause, and that the place of search must be described with particularity.

64. Defendants Wray and Garland, acting illegally in their official capacity and personally, violated the Fourth Amendment to the U.S. Constitution when they unreasonably, through their directives and orders, had searched and seized and continue to search Plaintiffs' and Members the Class phone and other records, including on the internet and social media, and millions of innocent U.S. citizens' records without reasonable suspicion or probable cause.

65. As a direct and proximate result of the illegal violation of Plaintiffs' and Members of the Class's constitutional rights, they suffered damages and the loss of their constitutional liberties, and there are no other adequate remedies at law.

66. These violations are compensable under *Bivens v. VI Unknown Named Agents of*

Federal Bureau of Narcotics, 403 U.S. 388 (1971).

67. The actions complained of by Defendants Wray and Garland were egregious violations of Plaintiffs' constitutional rights.

68. By reason of the wrongful conduct of Defendants Wray and Garland, Plaintiffs and Members of the Class have suffered harm in the form of having their Fourth Amendment rights violated, their business and property rights have been violated, and their freedom of speech and association have been severely comprised, as guaranteed to Plaintiffs under the U.S. Constitution.

THIRD CAUSE OF ACTION
(Violation of Section 702 of the Foreign Intelligence Surveillance Act)
Against All Defendants

69. Plaintiffs and Members of the Class repeat and re-allege all of the previous allegations of the entirety of this Complaint, including in other causes of action, and incorporates them herein in support of this count with the same force and affect, as if fully set forth herein again at length.

70. Plaintiffs and Members of the Class, as American citizens, enjoy the right to be free from targeted searches under Section 702 of the Foreign Intelligence Surveillance Act, which allows Defendants to conduct targeted searches of foreigners only.

71. Defendants, each and every one of them, acting under color of federal authority and in concert, violated Plaintiffs' constitutional rights by illegally and unconstitutionally surveilling them in violation of the strictures and legislated terms of Section 702 of the Foreign Intelligence Surveillance Act.

72. Defendants, each and every one of them, acted knowingly, willfully, and/or maliciously, and with the specific intent to illegally deprive Plaintiffs and Members of the Class of their constitutional rights, and/or with deliberate indifference to his constitutional rights.

73. The illegal actions complained of by the Defendants were violations of Plaintiffs' and Members of the Class's constitutional rights.

74. By reason of the illegal wrongful conduct of the Defendants, each and every one of them, jointly and severally, Plaintiffs and Members of the Class have suffered harm in the form of having their Section 702 and constitutional rights violated, their business and property have been violated, and their freedom of speech and association have been severely compromised, as guaranteed to Plaintiffs and Members of the Class under the U.S. Constitution.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the certification of a class consisting of those, who like them, are being terrorized, chilled in the exercise of their constitutional and other rights, harassed, investigated, targeted and unlawfully prosecuted by these Defendants, each and every one of them as joint tortfeasors, for peacefully expressing political opinions and ideologies disliked by federal government establishment in the Biden administration and elsewhere, through Defendants' campaign of intimidating and illegal search warrants and even arrests and prosecutions. These same Defendants look the other way from actual insurrection, arson, violence, rioting, murder, attempted murder, assault and battery, destruction of government property, and more from those on the socialist, communist and anarchist left who they agree with, such as Black Lives Matter and Antifa.

Plaintiffs pray for relief and judgment against each of the Defendants, jointly and severally, as follows: general damages, special damages, pre-judgment and post-judgment

interest as allowed by law well in excess of \$1 Billion US Dollars and the costs of suit incurred herein, in an aggregate amount to be determined by the jury, any other further relief the Court deems just and proper, for the illegal, unconstitutional and intentional and malicious acts of the Defendants, each and every one of them, acting in concert, against Plaintiff and the other Members of the Class.

Plaintiffs and Members of the Class requests the issuance of preliminary and permanent injunctions to restrain the continuing intimidation and chilling of their constitutional rights by the Defendants, each and every one of them.

Plaintiffs and Members of the Class pray that any prosecutions and/or convictions concerning Plaintiffs and Members of the Class be ordered terminated, overturned and/or dismissed as a result of the illegal surveillance as pled herein which resulted, in whole or in part, from the use of illegally obtained evidence which was used to indict, try, convict and sentence them.

DEMAND FOR JURY TRIAL

Plaintiffs and the other Members of the Class demand a trial by jury on all counts as to all issues and counts so triable.

DATED: September 20, 2023

Respectfully submitted,

/s/ Larry Klayman

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