

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION**

SARAH COFFEY, KRIS HERMES, and)
ERIN STALNAKER,)

Plaintiffs,)

v.)

DAVID LANGFELLOW, in his individual)
capacity as a St. Paul police officer and as)
a member of the Federal Bureau of)
Investigation Joint Terrorism Task Force,)
OFFICER ZIMMERMAN, in his individual)
capacity as a member of the Federal)
Bureau of Investigation, OFFICER)
WEIGEL, in his individual capacity as a)
St. Paul police officer, SERGEANT)
BRYANT GADEN, in his individual)
capacity as a St. Paul police officer,)
SERGEANT RICH MUNOZ, in his)
individual capacity as a St. Paul police)
officer, SERGEANT JANE MEAD,)
in her individual capacity as a St. Paul)
police officer, PETER A. BRAVO, in his)
individual capacity as a St. Paul police)
officer, PETER P. BYDZOVSKY, in his)
individual capacity as a St. Paul police)
officer, ARNULFO CURIEL, in his)
individual capacity as a St. Paul police)
STEVEN J. FRAZER, MFF 2)
COMMANDER, in his individual capacity)
as a St. Paul police officer, THEODORE)
GILLET, in his individual capacity as a)
St. Paul police officer, DAVID J.)
LONGBEHN, in his individual capacity as)
a St. Paul police officer, JUSTIN L.)
PAULSON, in his individual capacity as a)
St. Paul police officer, OFFICER)
STROKES, in his individual capacity as a)
St. Paul police officer, MATTHEW D.)
TORONTO, in his individual capacity as a)
St. Paul police officer, DAVID H. YANG,)
in his individual capacity as a St. Paul)
police officer, OFFICER "A", in his)

**SECOND AMENDED
COMPLAINT**

**DEMAND FOR JURY
TRIAL**

Case No.: 09-cv-02310-ADM-JJK

individual capacity as a St. Paul police)
officer, OFFICER “B”, in his individual)
capacity as a St. Paul police officer,)
OFFICER “C”, in his individual capacity)
as a St. Paul police officer, OFFICER “D”,)
in his individual capacity as a St. Paul police)
officer, OFFICER “E”, in his individual)
capacity as a St. Paul police officer,)
Department, OFFICER “G”, in his)
individual capacity as an officer of the)
Federal Bureau of Investigation, OFFICER)
“H”, in his individual capacity as an officer)
of the Federal Bureau of Investigation,)
CITY OF ST. PAUL, a municipal)
corporation, and the FEDERAL BUREAU)
OF INVESTIGATION,)
)
Defendants.)
_____)

I. INTRODUCTION

1. This is a civil rights action for declaratory and injunctive relief and damages arising from the unconstitutional and illegal actions taken by defendants against a peaceful group of activists at their residence in St. Paul near the time of the 2008 Republican National Convention. Plaintiffs did nothing illegal, nor intended to do anything illegal, while they were in Minnesota to exercise their First Amendment right to engage in peaceful political protest at a major political event, yet defendants surveiled them, closed in on and surrounded their residence with firearms drawn, and demanded entry. When plaintiffs did not immediately accede to the officers’ warrantless demand, they were held inside, subject to the threat of detention. This threat was harshly carried out against two plaintiffs.

2. Hours later, after submitting a search warrant affidavit laden with inaccuracies to a magistrate, defendants obtained and produced a warrant for the adjoining property and gained access to plaintiffs’ residence by breaking a lock in the attic. Coming down the attic stairs with

guns drawn, defendants handcuffed plaintiff Hermes and detained all of the plaintiffs for approximately one and one-half hours. Defendants' search yielded no evidence of any crime and they did not arrest anyone.

3. In doing these actions, defendants violated plaintiffs' rights to be free from unreasonable search and seizure, excessive force, and the rights to freedom of speech and association. They also committed trespass, battery, invasion of privacy, and false arrest. This action seeks to adjudicate these claims.

4. These preemptive actions by law enforcement at major national political events are part of an illegal pattern by members of the federal government seeking to deter dissent and stifle the exercise of the First Amendment right to peaceful political protest. In addition to damages, this action seeks declaratory and injunctive relief to vindicate the First Amendment rights of plaintiffs and others and prevent this unconstitutional behavior from continuing.

II. JURISDICTION AND VENUE

5. Plaintiffs bring claims under the First, Fourth, and Fourteenth Amendments to the United States Constitution, protected through 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), and claims under the laws of the State of Minnesota.

6. This Court has subject matter jurisdiction over the federal claims pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

7. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

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8. Venue is proper in the United States District Court for the District of Minnesota, Third Division, pursuant to 28 U.S.C. § 1391 and Local Rule 83.11, because the substantial number of events that give rise to this lawsuit took place in the city of St. Paul, Ramsey County, State of Minnesota.

III. PARTIES

A. Plaintiffs

9. Plaintiff Sarah Coffey was a resident of Fremont, Michigan who was temporarily residing at 949 Iglehart Avenue, St. Paul, Minnesota on August 30, 2008. She was a legal observer on the date of the incident.

10. Plaintiff Kris Hermes was a resident of Oakland, California who was temporarily residing at 949 Iglehart Avenue, St. Paul, Minnesota on August 30, 2008. He was a legal observer on the date of the incident.

11. Plaintiff Erin Stalnaker was a permanent resident at 949 Iglehart Avenue, St. Paul, Minnesota on August 30, 2008.

B. Defendants

12. Defendant David Langefellow was, at all relevant time, an adult individual employed as a police officer by the City of St. Paul and the Federal Bureau of Investigation Joint Terrorism Task Force. He is being sued in both his individual and official capacities.

13. Defendant Officer Zimmerman was, at all relevant time, an adult individual employed by the Federal Bureau of Investigation. He is being sued in both his individual and official capacities.

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14. Defendant Officer Weigel is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

15. Defendant Bryant Gaden, is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

16. Defendant Rich Munoz is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

17. Defendant Jane Mead is an adult individual employed as a police officer by the City of St. Paul. She is being sued in both her individual and official capacities.

18. Defendant Peter A. Bravo is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

19. Defendant Peter D. Bydzovsky, Squad 123 is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

20. Defendant Arnulfo Curiel is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

21. Defendant Steven J. Frazer, MFF 2 Commander, Squad 840, is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

22. Defendant Theodore Gillet is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

23. Defendant David J. Longbehn is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

24. Defendant Justin L. Paulson, Squad 123, is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

25. Defendant Officer Strokes is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

26. Defendant Matthew D. Toronto, Squad 125, is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

27. Defendant David H. Yang, Squad 151, is an adult individual employed as a police officer by the City of St. Paul. He is being sued in both his individual and official capacities.

28. Plaintiffs are ignorant of the true names of defendants sued herein as Officers "A" through "H", inclusive, and therefore sue said defendants by such fictitious names. Plaintiffs will amend this complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe and therefore allege that each of these defendants is legally responsible and liable for the injuries and damages hereinafter set forth, and that each of said defendants proximately caused said injuries and damages by reason of their violation of constitutional and legal rights. Plaintiffs will ask leave to amend this complaint to insert further charging allegations when such facts are ascertained. Defendants "A" through "E" are individuals employed as police officers by the City of St. Paul. They are being sued in their individual and official capacities. Defendants "G" and "H" are individuals employed by the Federal Bureau of Investigation. They are being sued in their individual and official capacities.

29. Each of the defendants caused and is responsible for the below-described unlawful conduct and resulting injuries by, among other things, personally participating in the unlawful conduct or acting jointly or conspiring with others who did so; by authorizing, acquiescing to or setting in motion policies, plans or actions that led to the unlawful conduct; by failing to take action to prevent the unlawful conduct; by failing and refusing with deliberate indifference to plaintiff's rights to initiate and maintain adequate training and supervision; and by ratifying the unlawful conduct that occurred by agents and officers under their direction and control, including failing to take remedial or disciplinary action.

30. In doing the acts alleged herein, defendants were each acting within the scope and course of their employment.

31. At the time of the incident, and at all times pertinent hereto, defendants acted under color of law, of a statute, ordinance, regulation, custom, or usage.

32. Defendant City of St. Paul is a municipal corporation and political subdivision of the State of Minnesota. Defendant City of St. Paul is being sued based on *respondeat superior* liability, as the employer of the individual defendants.

33. Defendant Federal Bureau of Investigation is a department of the United States of America and is being sued for engaging in a pattern and practice of chilling First Amendment rights at major political events.

34. On or about February 23, 2009, plaintiffs filed tort claims with the Federal Bureau of Investigation ("FBI"), in compliance with the Federal Tort Claims Act. The FBI constructively denied these tort claims by failing to act upon them to this day.

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IV. FACTS

35. In the morning of August 30, 2008, defendant Officer Langfellow met with defendant FBI Officer "H" regarding surveillance being conducted at 949 Iglehart Avenue, St. Paul, Minnesota. At the behest of Officer "H", Langfellow agreed to seek a search warrant for that address.

36. Also in the morning of August 30, 2008, defendant Officer Langfellow met with defendant FBI Officer Zimmerman in an effort to obtain a search warranty for 949 Iglehart Avenue, St. Paul, Minnesota.

37. At approximately 11 a.m. on August 30, 2008, an unknown Sheriff's deputy from the State of Wisconsin and an unknown officer of the Federal Bureau of Investigation visited 949 Iglehart Avenue, St. Paul, Minnesota, inquiring about someone who did not reside there.

38. Approximately two hours later, numerous law enforcement officers approached and surrounded the residence at 949 Iglehart Avenue and asked to enter the residence. When entry was denied and request for a warrant was made, the officers failed to produce a warrant. The group was then threatened with detention if they exited the residence.

39. Soon thereafter, plaintiff Sarah Coffey left 949 Iglehart Avenue to retrieve a bag outside the house, which contained a camera. Upon doing so, she was promptly handcuffed and detained.

40. At approximately the same time, while attempting to photograph the incident, plaintiff Erin Stalnaker was pulled out of the adjacent residence by an officer reaching through the slightly ajar front door of 951 Iglehart Avenue.

41. Meanwhile, additional law enforcement officers surrounded the residences with guns drawn. Many were wearing flack jackets and some were armed with automatic rifles.

42. The group inside the residences were detained for approximately two hours before the law enforcement officers produced a search warrant. The search warrant for 951 Iglehart Avenue, which was obtained through false statements, was presented to the residents at 949 Iglehart Avenue, but law enforcement officers were denied entry on the basis that the warrant had an incorrect address and was therefore invalid. Several law enforcement officers subsequently entered 951 Iglehart Avenue without incident once the warrant was shown.

43. After conducting a search of 951 Iglehart Avenue, which produced no evidence of any crime, the officers proceeded to the attic and broke a lock to gain entry to 949 Iglehart Avenue.

44. The officers descended the attic stairs with firearms drawn and proceeded to handcuff all seven persons in the house at that time. Plaintiffs are among those who were handcuffed.

45. All of the plaintiffs who were handcuffed were taken to the back yard of the residence and were detained for approximately one and one-half additional hours.

46. Although the plaintiffs' personal property was searched, no property was seized and no arrests or citations were made.

47. As a direct result of defendants' unlawful actions, plaintiffs suffered damages, including, but not limited to: embarrassment, emotional distress, fear of law enforcement, false imprisonment, unreasonable search and seizure, excessive force, trespass, invasion of privacy, violation of the First Amendment rights to freedom of speech and freedom of association.

48. Defendants' actions are continuing. Plaintiffs have no speedy and adequate remedy at law.

V. CAUSES OF ACTION

**COUNT ONE--FOURTH AND FOURTEENTH AMENDMENTS
(42 U.S.C. § 1983)**

49. Plaintiffs reallege and incorporate by reference paragraphs 1 through 48 of this complaint as though fully set forth herein.

50. The above-named and unnamed individual defendants, jointly and severally, violated plaintiffs' clearly established rights under the Fourth and Fourteenth Amendments to the United States Constitution to be free from unreasonable searches and seizures of their persons, home, and personal property and their right to be free from excessive force.

**COUNT TWO--FIRST AND FOURTEENTH AMENDMENTS
(42 U.S.C. § 1983)**

51. Plaintiffs reallege and incorporate by reference paragraphs 1 through 50 of this complaint as though fully set forth herein.

52. The above-named and unnamed individual defendants, jointly and severally, violated plaintiffs' clearly established rights under the First and Fourteenth Amendments to the United States Constitution to freedom of speech and freedom of association.

**COUNT THREE--FIRST AMENDMENT
(*Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971))**

53. Plaintiffs reallege and incorporate by reference paragraphs 1 through 52 of this complaint as though fully set forth herein.

54. The above-unnamed individual federal defendants violated plaintiffs' clearly established rights under the First Amendment to the United States Constitution to freedom of speech and freedom of association.

COUNT FOUR--FOURTH AMENDMENT

(Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971))

55. Plaintiffs reallege and incorporate by reference paragraphs 1 through 54 of this complaint as though fully set forth herein.

56. The above-named and unnamed individual federal defendants violated plaintiffs' clearly established rights under the Fourth Amendment to the United States Constitution to be free from unreasonable searches and seizures of their persons, home, and personal property and their right to be free from excessive force.

COUNT FIVE--CONSPIRACY

(42 U.S.C. § 1985; *Bivens v. Six Unknown Named Agents, 403 U.S. 388 (1971)*)

57. Plaintiffs reallege and incorporate by reference paragraphs 1 through 56 of this complaint as though fully set forth herein.

58. The above-named and unnamed individual defendants conspired to violate plaintiffs' clearly established rights under the First, Fourth, and Fourteenth Amendments to the United States Constitution to freedom of speech and freedom of association.

COUNT SIX--FALSE IMPRISONMENT

59. Plaintiffs reallege and incorporate by reference paragraphs 1 through 58 of this complaint as though fully set forth herein.

60. The above-named individual defendants, jointly and severally, falsely imprisoned plaintiffs.

COUNT SEVEN--INVASION OF PRIVACY

61. Plaintiffs reallege and incorporate by reference paragraphs 1 through 60 of this complaint as though fully set forth herein.

62. The above-named individual defendants, jointly and severally, invaded the privacy of plaintiffs, in violation of their common law right to be free from invasion of privacy by intrusion into their home.

COUNT EIGHT--TRESPASS

63. Plaintiffs reallege and incorporate by reference paragraphs 1 through 62 of this complaint as though fully set forth herein.

64. The above-named individual defendants, jointly and severally, intruded into plaintiffs' residence without authority, which constitutes an illegal trespass.

COUNT NINE--BATTERY

65. Plaintiffs reallege and incorporate by reference paragraphs 1 through 64 of this complaint as though fully set forth herein.

66. The above-named individual defendants, jointly and severally, committed battery against plaintiffs.

VI. STATEMENT OF DAMAGES

67. As a direct and proximate result of the wrongful acts and/or omissions of the defendants, as set forth above, plaintiffs have sustained the following injuries and damages:

- a. Physical pain and mental anguish, past and present;
- b. Emotional distress, humiliation, fear, and embarrassment;
- c. Attorney's fees.

68. The actions of defendants were malicious or oppressive, and amounted to gross negligence and a reckless disregard for the plaintiffs, and justify the imposition of punitive or exemplary damages upon these defendants in order to encourage and ensure that these defendants, as well as other law enforcement officers, will not repeat the same, or substantially similar conduct.

VII. PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for damages as follows:

- a. That this Court declare the rights of all parties;
- b. That this Court issue an injunction enjoining the defendants from seeking to deter the exercise of First and Fourth Amendment rights at major political conventions;
- c. Compensatory damages, including, but not limited to general and special damages, according to proof at trial;
- d. Exemplary and punitive damages in an amount according to proof at trial;
- e. Reasonable attorney's fees, pursuant to 42 U.S.C § 1988;
- f. Costs of suit incurred herein;
- g. All other compensatory, equitable and declaratory relief as this Court deems just.

DATED: March 25, 2011

Respectfully Submitted,

/s/ Joseph D. Elford
Joseph D. Elford
1322 Webster Street, Suite 402
Oakland, CA 94612
(415) 573-7842

/s/ Rachel E. B. Lang
Rachel E. B. Lang
Minnesota Bar #0386557
940 Charles Avenue
St. Paul, MN 55104
(612) 743-8136

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial of this action.

DATED: March 25, 2011

Respectfully Submitted,

/s/ Joseph D. Elford
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