

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DAVID HOUSE,)
)
Plaintiff,)
)
v.)
)
JANET NAPOLITANO, in her official capacity as)
Secretary of the U.S. Department of Homeland)
Security; ALAN BERSIN, in his official capacity as)
Commissioner, U.S. Customs and Border Protection;)
JOHN T. MORTON, in his official capacity as Director,)
U.S. Immigration and Customs Enforcement,)
)
Defendants.)

COMPLAINT

NATURE OF THE ACTION

1. This is an action for declaratory and injunctive relief against officials of the Department of Homeland Security and its components, Customs and Border Protection and Immigration and Customs Enforcement. Plaintiff challenges as a violation of the First and Fourth Amendments the prolonged seizure of his laptop computer and other electronic devices and the review, copying, retention, and dissemination of their contents. Plaintiff also alleges that the materials seized by the government contain confidential information identifying members and supporters of a political organization, the Bradley Manning Support Network, and that Defendants' review, retention, and disclosure of that information intrudes on the right of associational privacy protected by the First Amendment. Plaintiff seeks a declaratory judgment that the search and seizure violated the First and Fourth Amendments, and an injunction requiring Defendants to return or destroy any seized data in their custody or control and to inform Plaintiff whether that data has been disclosed to other agencies or individuals.

including “a classified video of a military operation,” and fifty Department of State cables. Further charges were brought against him in March 2011, including a charge that he knowingly gave intelligence to the enemy, a capital offense. Following his arrest, Manning was moved to a military detention facility in Quantico, Virginia where he was held in solitary confinement under conditions that have been widely criticized as degrading and humiliating. In April 2011, Manning was transferred to a maximum security facility at Ft. Leavenworth, Kansas.

10. Manning’s arrest followed the April 2010 publication by WikiLeaks of a video titled “Collateral Murder,” a recording of a 2007 air attack by U.S. forces in Baghdad in which Iraqi civilians, including two Reuters employees, were killed. WikiLeaks is an organization that provides both a channel and a platform for the public disclosure of information obtained from anonymous sources. Beginning in 2006, WikiLeaks has made available information about the activities of both U.S. and foreign governments and private organizations which are of interest to the public, including documentation of corruption and official misconduct and records of undisclosed government policy. In July 2010, WikiLeaks released a compilation of nearly 77,000 previously unavailable documents about the war in Afghanistan. In October 2010, in coordination with major international media organizations including The New York Times and The Guardian, the group released a collection of almost 400,000 government documents concerning the Iraq war. In November 2010, WikiLeaks, again working in collaboration with major international media organizations, released an additional collection of State Department cables. Rather than release all 251,287 cables it had obtained, WikiLeaks shared them with major international media organizations, and then placed a few hundred documents on its website.

11. The alleged disclosure of government records by Manning and the suspected connection between Manning and WikiLeaks are the subject of criminal investigations by civilian and military authorities. The Department of Defense has acknowledged that the

June 2010 to establish the Bradley Manning Support Network (“Support Network”). The Support Network is an unincorporated association of individuals and organizations which describes itself as an “international grassroots effort to help accused whistle blower Pfc. Bradley Manning.” To that end, its stated purposes include: harnessing the outrage of viewers of the “Collateral Murder” video into a coordinated effort in defense of Manning; coordinating international support for Manning; raising funds for Manning’s legal defense; and providing support for Manning during his imprisonment. These objectives are pursued through the Support

The November 3, 2010 Seizure of Plaintiff's Electronic Devices

15. On November 3, 2010, following a vacation in Mexico, Plaintiff arrived at Chicago's O'Hare International Airport where he was to take a connecting flight to Boston. He was carrying his laptop computer, a USB storage device, a video camera containing a memory storage device, and a cellular phone. Upon arrival, Plaintiff passed through a passport control

contact with anyone from WikiLeaks during his trip to Mexico. Plaintiff was asked no questions relating to border control, customs, trade, immigration, or terrorism, and at no point did the agents suggest that plaintiff had broken the law or that his computer contained any illegal material. Plaintiff answered their questions truthfully and to the best of his ability.

20. When Plaintiff was finally allowed to leave, only his cell phone was returned to him. The other items which had been taken, specifically his laptop, USB device, and video camera, were not returned. Plaintiff was given a receipt listing the items that had been seized, indicating

This authority extends to any information which they may discover, without regard to whether that information is personal, confidential, or even privileged.

25. Both CBP and ICE policies permit the detention of seized items after the traveler has left the border for purpose of further reading or analysis. The policies also authorize the sharing of a traveler's devices or information obtained from those devices with other government agencies or private parties for the purpose of obtaining assistance in the search and analysis of their contents.

26. Although the CBP and ICE Policies purport to limit retention of information gleaned from a traveler's electronic devices, retention is permitted whenever the information is deemed "relevant" to immigrations, customs, or any other law enforcement matter, and any retainaass

communications between members of the Steering Committee about strategy and fund-raising activities, the identity of donors, lists of potential donors and their ability to contribute, and notes on meetings with donors including personal observations about those donors.

31. At no point during the seizure, transfer, search, and prolonged detention of Plaintiff's electronic devices or the copying, dissemination, and retention of information derived from them

and of potential supporters and donors will materially interfere with lawful activities and association in support of Manning's defense.

FIRST CAUSE OF ACTION

36. The search and seizure and detention of Plaintiff ~~Cl(i)18(n)20(t)-42(iw)2(i)18(l)-2(e)y40(18)13((c)-16~~

- C. Enter preliminary and permanent injunctions requiring Defendants to disclose to Plaintiff (1) whether any information obtained from Plaintiff's electronic devices has been disclosed or disseminated to any other agencies, organizations, individuals, or foreign governments, including but not limited to those agencies from which CBP and/or ICE sought technical assistance in accessing the information; (2) when and in what form any such disclosure or dissemination occurred; and (3) the specific data or information which was disclosed or disseminated, and to whom.
- D. Award Plaintiff reasonable attorneys' fees and costs.
- E. Grant any other relief the Court deems appropriate.

DAVID HOUSE
By his attorneys,

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