Julian Assange’s US lawyers sue CIA for violating their constitutional rights

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Lawyers and journalists who visited WikiLeaks publisher Julian Assange at the Ecuadorian Embassy in London are suing the CIA and its former Director Mike Pompeo for violations of their Fourth Amendment rights against warrantless search and seizure of their property, including privileged client-attorney information during visits to the embassy.

Attorneys Margaret Ratner Kunstler and Deborah Hrbek, and journalists John Goetz and Charles Glass are seeking monetary and injunctive relief against the CIA, Pompeo, Spanish security firm UC Global and its owner David Morales. All four plaintiffs are US citizens who visited Assange at the Ecuadorian Embassy between January 2017 and March 2018.

Their lawsuit was filed Monday morning in the Southern District of New York and was announced at a press conference livestreamed shortly after.

Richard Roth, whose law firm filed suit, said his clients had learned that when they visited Assange at the embassy their equipment was “taken, imaged and in addition their conversations were recorded by a company at the direction of Mike Pompeo of the CIA.

“It is somewhat startling in light of the Fourth Amendment protection we have in the Constitution, that the federal government would actually go ahead and take this confidential information, some of which is attorney-client privileged, some which of which was [from] journalists and even doctors that visited Mr Assange.”

Roth said the CIA’s “nefarious activities” had violated his clients’ rights and they were seeking damages, including “the return of all this information which was improperly gathered during the visits to Mr Assange.”

Robert Boyle, a New York civil rights and constitutional law attorney who is consulting on the case, explained its significance for the democratic rights of US citizens, “The Fourth Amendment to the United States Constitution protects US citizens from being subjected to unreasonable searches and seizures. That fundamental principle applies to searches and seizures directed toward US citizens by US law enforcement anywhere in the world.

“These Fourth Amendment protections were blatantly violated. The contents of the plaintiffs’ digital devices were secretly copied by security personnel recruited by the CIA and then that information was turned over to the CIA. This was part of an intentional plan.”

The Fourth Amendment to the US Constitution was introduced to Congress by James Madison in 1789 and was ratified in 1791.

Boyle said the CIA’s seizure and copying of digital information on plaintiffs’ devices had violated not only their rights and those of Assange, but had broader effects, “think of what we store in our phones and our computers: birthdays, bank information, dates of birth, and all of this was recorded and then given over to the Central Intelligence Agency. So, the violations of the privacy rights here were particularly egregious.”

Assange’s rights to a fair trial “have now been tainted if not destroyed,” Boyle stated. He concluded that the violation of Assange’s privileged communications with lawyers meant “there should be sanctions, even up to dismissal of those charges, or withdrawal of an extradition request, in response to these blatantly unconstitutional activities.”

Margaret Ratner Kunstler, a criminal and civil rights attorney, and a co-plaintiff in the case, explained, “As a criminal attorney I don’t think there there's anything worse than your opposition listening in to what your plans are, what you intend to do, your conversations… It’s a terrible thing and it's treated by the United States courts as a terrible thing.”

She explained that violations of client-attorney privilege had often led to a case being dismissed, “I'll give you one example. In the Wounded Knee case there was an FBI

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agent who listened at the door and reported. He also did a couple of other things like dealing with a witness. The judge in that case dismissed the indictment for gross misconduct. And gross misconduct is exactly what has happened here, and I don't understand how the CIA, I guess through the insanity of Pompeo, could think that they could do this. This is so outrageous that its beyond my comprehension."

Debra Hrbek, a media attorney who represented WikiLeaks journalists and videographers, addressed the press conference as a plaintiff, "I visited Julian Assange at the Ecuador Embassy in London and few times during his stay to discuss sensitive legal matters. On arrival there was a strict protocol for the protection of Julian we were told. Passports, mobile phones, cameras, laptops, recording devices and other electronic equipment were turned over to the security guards in the lobby.

"We learnt much later through a criminal investigation under the supervision of the court in Spain that while visitors like me were meeting with Julian in the embassy conference room, the guards next door were taking apart our phones and removing and photographing SIM cards and we believe downloading data from our electronic equipment."

Hrbek explained how David Morales' security firm UC Global was recruited by the CIA, through associates of Trump donor Sheldon Adelson, during a tech conference in Las Vegas: "Morales made regular trips to Washington DC, New York, Las Vegas, reportedly to hand over thumb drives and receive further instructions from his US government handlers.

"In other words, during our meetings with Julian at the embassy, recordings of our confidential conversations and the contents of our electronic devices were being delivered into the hands of the United States government.

"I'm a New York lawyer. I have the right to see the US government is not listening to my private and privileged conversations with my clients, and that information about other clients in cases I may have on my phone or laptop are secure from illegal government intrusion. This is not just a violation of our constitutional rights. This is an outrage."

John Goetz, also a co-plaintiff, is Editor of Investigations at German public broadcaster NDR. He worked with Assange between 2011 and 2017: "we were often partners with WikiLeaks when it came to doing different stories." Goetz visited Assange at the embassy on several occasions and NDR later sued UC Global in the Spanish courts "for having listened to our conversations. And we found in that process a series of documents that they prepared about my meetings with Assange."

He concluded, "I just find it very disturbing. I thought we were protected, especially as an American citizen, by the Fourth Amendment."

The complaint filed against the CIA underscores the collapse of legal and democratic norms in the United States and Europe. Despite admissions that the CIA plotted to kidnap and assassinate Assange in London, he remains incarcerated without charge inside London's Belmarsh maximum security prison. His extradition to the US was approved last month by UK Home Secretary Priti Patel.

Assange faces 18 charges under the Espionage Act, carrying a possible 175-year prison term. His prosecution for courageous journalism that exposed war crimes by the US government in Iraq and Afghanistan is the culmination on a decade-long campaign of state persecution begun under the Obama administration, deepened under Trump, and continues under Biden.

Nathan Fuller, from the Assange Defense Committee in the United States, summed up the discussion: "We want to educate the public about the dangers that this prosecution poses to all our basic rights, our journalists' right to publish what's in the public interest, and our own right to know what our governments are doing in our name.

"The public should know the lengths that its own government is willing to go to silence the journalist who publishes information embarrassing to the regime, spying on his conversations, seizing the devices of his visitors, and even plotting to kidnap and kill him as *Yahoo News* reported, all while he was a political asylee of Ecuador. This should worry anybody who values investigative journalists and journalism, and we should be aware of the unprecedented threat that this prosecution poses."

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