Joseph Michael Ladeairous #1433027
Augusta Correctional Center
1821 Estaline Valley Road

December 15th 2021

Clerk of the Court
Mark J. Langer
United States Court of Appeals
for the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

Re; Ladeairous v. Garland et. al. No. 21-5119

Mr. Langer

Please file and docket the attached appellate brief concerning the above said matter with all the other papers in this cause.

Thank you for your time and attention to this matter. Good day and happy holidays.

Respectfully,

Joseph Michael Ladeairous
Pro-se appellant

CERTIFICATE OF SERVICE

I hereby certify, that on this 20th day of December, a true and accurate copy of appellants appellate brief and all the attached papers where mailed to all parties as shown below;

Clerk of the Court Mark J. Langer
U.S. Court of Appeals
For the District of Columbia
333 Constitution Avenue N.W.
Washington D.C. 20001

Appointed Amicus Curiae
Erica Hashimoto
Georgetown Law Center
600 New Jersey Avenue, Suite 306
Washington D.C. 20001-2095

U.S. Attorney's Office
555 Fourth Street N.W.
Washington D.C. 20530

Respectfully,

Joseph Michael Ladeairous

Subscribed and sworn to before me
this 15 day of December 2021

Notary Public

My commission expires; 1/31/2024

Commonwealth Of Virginia
David Lee Sprouse - Notary Public
Commission No. 7519836
My Commission Expires 1/31/2024

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

JOSEPH MICHAEL LADEAIROUS
Pro-se Appellant

V. No. 21-5119

U.S. ATTORNEY GENERAL
MERRICK B. GARLAND et. al.
Appellee

On Appeal From The United States District Court
For The District Of Columbia

Brief Of Appellant Joseph Michael Ladeairous
(Submitted Without Oral Argument)

Joseph Michael Ladeairous
#1433027
Augusta Correctional Center
1821 Estaline Valley Road
Craigsville Virginia 24430

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JURISDICTIONAL STATEMENT

Pursuant to 28 U.S.C. § 1291 the courts of appeals shall have jurisdiction of appeals, from all final decisions by the District Courts of the United States, the United States District Courts for the District of the Canal Zone, the District Courts of Guam, and the District Courts of the Virgin Islands, except where direct review may be had in the United States Supreme Court.

Appellate jurisdiction not vested in the United States Supreme Court is vested in the Court of Appeals of the United States.

The United States Court of Appeals for the District of Columbia is an appropriate venue to submit an appeal from orders and decisions from the United States District Court for the District of Columbia.

STATEMENT OF THE ISSUES FOR REVIEW

The appellant, Joseph Michael Ladeairous, brings forth the following appellate brief to this most honorable court for the appellate review of the February 24th 2021 order by the United States District Court for the District of Columbia and its dismissal of appellants civil action for lack of subject-matter jurisdiction, failure to establish standing, failure to state a claim under the Foreign Intelligence Surveillance Act, Patriot Act, Declatory judgement act, and "Bivins" claims.

STATEMENT OF THE CASE

The appellant, Joseph Michael Ladeairous, brought forth a federal civil action, in the United States District Court for the District of Columbia against the United States Attorney General Merrick B. Garland and the United States Inspector General Michael Horowitz for declatory and injunctive relief to redress the deprivation of rights secured by the United States Constitution that resulted from abuses sustained while subjected to Foreign Intelligence Surveillance Act investigations and surveillances while interacting and supporting Irish republican organizations in the U.S. and Ireland that the U.S. Government has placed terror designations upon.

STATEMENT OF THE CASE

On October 17th 2013 appellant filed a civil action in the U.S. District Court for the District of Columbia against the U.S. Attorney General and the U.S. Inspector General for declatory and injunctive relief to redress the deprivation of rights secured by the U.S. Constitution that resulted from abuses sustained while subjected to the Foreign Intelligence Surveillance Act investigations and surveillances while interacting and supporting Irish republican organizations in the U.S. and Ireland that the U.S. Government has placed terror designations upon.

On December 20th 2013 after raising fears with the court of appellants legal mail being the target of misconduct, the case was dismissed by the district court for failing to comply to a court order for additional in forma pauperis information.

On July 31st 2014 this court ruled that appellant had shown evidence of complying with the lower courts order. Thus, dismissing the case without prejudice and ordered reconcideration back to the lower court as shown in Ladeairous v. Holder 574 Fed. Appx 3 (2014).

On August 25th 2014 the lower court denied the filing of appellants court ordered motion for reconcideration.

On September 19th 2014 a rehearing en banc on the matter was denied.

On January 26th 2015 the U.S. Supreme Court denied a writ of certiorari on the materr as shown in Ladeairous v. Holder 135 S.Ct. 1186 (2015).

On May 28th 2015 appellant would refile this civil action in the U.S. District Court for the District of Columbia.

On October 16th 2015 the district court denied appellants in forma pauperis for the refiling of this civil action pursuant to the Prison Litigation Reform Act (P.L.R.A.) 28 U.S.C.§ 1915(g) three strike rule and dismissed the case without prejudice as shown in Ladeairous v. Lynch 2015 U.S. Dist. Lexis 144360 (Oct. 16 2015)

On March 16th 2016 this court granted appellants in forma pauperis and vacated and remanded the case back to the district court as shown in Ladeairous v Sessions

884 F.3d 1172 (2018)

On May 15th 2020 appellee submitted a motion to dismiss to the district court.

On June 24th 2020 appellant submitted an opposition to appellees motion to dismiss.

On September 11th 2020 appellee submitted a reply in support of appellees motion to dismiss.

On September 28th 2020 appellant submitted a surreply in support of appellants opposition to appellees motion to dismiss.

On October 7th 2020 the district court granted appellants surreply in suppport of appellant opposition to appellees motion to dismiss.

On February 24th 2021 the district court ruled in favor of appellee granting appellees motion to dismiss and dismissing appellants civil action.

On May 10th 2021 appellant submitted a Notice of Appeal.

On June 2nd 2021 this court informed appellant it had not recieved appellants Notice of Appeal until May 17th 2021 beyond the "60 day" period permitted by the Federal Rules of Appellate Procedure (F.R.A.P.). This court then ordered appellant to show cause as to why this appeal should not be dismissed as untimely. This court also ordered appellant to either pay the court filing fee for this appeal or file a motion to leave to proceed in forma pauperis. All to be submitted by June 2nd 2021

On June 23rd 2021 appellant submitted an order to show cause and a motion to leave to proceed in forma pauperis to the court as ordered.

On July 12th 2021 this court granted appellants in forma pauperis.

On November 12th 2021 this court appointed amicus curiae to appellants appeal and ordered both appellant and amicus to submit appellate briefs by January 7th 2022.

SUMMARY OF ARGUMENT

The United States District Court for the District of Columbia granted appellees motion to dismiss and dismissed appellants civil action for declatory and injunctive relief to redress the deprivation of rights secured by the U.S. Constitution that

resulted from abuses sustained while subjected to Foreign Intelligence Surveillance Act (F.I.S.A.) investigations and surveillances while interacting and supporting Irish republican organizations in the U.S. and Ireland. In appellants appellate brief the appellant will argue and show with rulings from the U.S. Supreme Court and this most honorable court that the district courts dismissal of appellants civil action for lack of subject-matter jurisdiction, failure to establish standing, failure to state a claim under F.I.S.A., U.S. Patriot Act, Declatory Judgement Act, and "Bivins" claims was improper. Plus, the Federal Rules Of Appelate Procedure Rule 4(a)(5) & 4(a)(6) issue.

ARGUMENT

The appellant will show that the district court granting of appellee's motion to dismiss and dismissing appellants civil action was improper for the following reasons.

1. THE COURTS LACK OF SUBJECT-MATTER JURISDICTION OVER THE ENTIRE COMPLAINT

The district court dismissed appellants claim for lack of subject-matter jurisdiction. Charging that instead of appellant taking the opportunity to clarify appellants allegations, had discussed the Foreign Intelligence Surveillance Act (F.I.S.A.) statute at length. The district court then accused appellant of using this case to give voice to vague and unsubstantiated conspiracy theories and pointing out that other claims of unlawful F.I.S.A. surveillance have not faired well in this district.

To argue, this case was at its pleading stage that is governed by Federal Rules of Civil Procedure (F.R.C.P.) Rule 8(a)(2) and opposing a motion to dismiss pursuant to F.R.C.P. 12(b)(1) and Rule(b)(6). When evidence is not required and discovery not given. Therefore, appellant believed appellant did not need, and was unable to obtain, tangible items to substantiate appellants claim. Such as, to name a few, the interrogation tape of appellant being proclaimed a member of the Irish Republican Army (I.R.A.). (Ladeairous v Goldsmith 136 S.Ct. 1169 (2016). Nor the records of the New York State Inspector Generals Office soliciting appellant to aid in the apprehension of a corrupt investigator investigating appellant for appellants Irish republican

support while in New York State prison.(Ladeairous v. Schneiderman 135 S.Ct. 579 (2015)

However, after numerous attempts to obtain documentation from the Virginia Department of Corrections (V.D.O.C.) and its designation of appellant being an I.R.A. member. Which was revealed during a meeting with V.D.O.C. organization investigators, Mr. Lokey, Mrs. Leatherwood, Mrs. Quillin, Mrs. Quisenberry, and Mr. Nikstatis on April 6th 2016. Then, during a second meeting with Mr. Lokey and Mrs. Leatherwood on June 30th 2016 after requesting such documentation.(Appendix A) At which time appellant was told to direct whoever wanted such information to appellants prison jacket. The appellant now possesses the November 12th 2021 reply from the Augusta Correctional Center Organization Investigator, Mrs Clifton, where appellant is imprisoned. Mrs. Clifton informed appellant that the prison is aware of appellants Irish republican support but the prison does not necessarily consider appellant to be affiliated with the organization. They have seen no evidence of appellant actively supporting any security threat. Although, the Special Operations Unit may be able to give appellant such documentation.(Appendix B)

In essence, this letter confirms what appellant has said appellant is subjected to since the beginning of appellants Irish republican support. That appellants support is looked into with an I.R.A. member designation looming in the background somewhere.

Furthermore, the fact that appellant did not need evidence at this stage is the reason appellant had gone into the F.I.S.A. statute at length as the district court charged. The appellant explained that the laws controlling the dissemination of information about those supporting organizations the government placed terror labels upon have been removed and expanded upon. Plus, how the informations dissemination exceeds the control and sensitivity of the information being disseminated.

For example, as shown, the appellants support of Irish republican ideals is noted by the V.D.O.C. investigators. Yet, this came about without appellants active support. We can only guess then how this information was obtained. But what we do know is such information of those supporting organizations with terror labels is shared. Therefore,

when appellant asked the court to take notice of appellant being given cellmates so out of the realm of compatible normalcy. That one cellmate had just recieved a street charge for raping his previous cellmate. This done during appellant complaining about the matter.(Appendix C) Can this be dismissed as "essentailly fictitious" knowing that the Unit Manager who moved the men into appellants cell, bypassing normal procedure, is privy to such information? The appellant is aware that complaining of too many wrongs happening to one person too many times is not sufficiant. But where there is smoke there is fire. This court has witnessed and ruled on such problems with appellants legal mail being the target of prison officials misconduct as appellant complained of the problem to the court.(Ladeairous v Holder 574 Fed. Appx. 3 (2014) Even the current order to show cause by this court was the result of another legal mail problem with appellants notice of appeal for this appeal. Plus, the district courts statement that appellants complaint "alleges a sprawling conspiracy spanning 21 years". The court is forgetting the fact that every impediment in this civil action since 2013 has been caused by the government in one form or the other. As well, the district courts allusion of appellants mindset when appellant, again, ask the court to take notice of appellees peculiar request to have a deadline date moved to September 11th in a case concerning terror labels. Truth is conditioned harassment is a real thing but very difficult to prove. Yet, appellant was able to give an example of another case supporting the same thing with the same date used in the same peculiar manner.(Poett v. U.S. 657 f.supp. 2d 230 (2009).

Moving on, believing no evidence was required or discovery was yet obtainable, appellants opposition also gave examples of other Irish republican supporters experiencing similiar abuses. Pointing out how the Irish republican ideoligy, in relation to the U.S., is an onion with numerous layers and every layer met more contemptuously by the government. Also, mentioning the earlier said interrogation and solicitation of appellant.

However, just as this court noted in another F.I.S.A. liability case, where the

government argued for "a different standard for cases challenging F.I.S.A. surveillances, a standard requiring plaintiffs to recite detailed facts in the complaint showing that they could prove their claims without discovery".(A.C.L.U. v. Barr 952 F.2d 457 (1991). The same applies here, but it is the district court that appellant believes is requiring appellant to somehow show evidence withour having to show evidence. The appellant does not know how to answer the appellees motion to dismiss other than in the manner in which appellant had done at this stage without discovery. The appellant also believes it is this conundrum that is behind the reason civil actions concerning "conspiratorial claims of unlawful F.I.S.A. surveillances have not faired well in this district" or any other district for that matter.

Once more, the district court accused appellant of using this case to "give voice to vague and unsubstantiated conspiracy theories". Conversely, appellant will bring to the courts attention a sworn affidavit written by appellants mother, Joan Ladeairous, for the trial of this case. Who witnessed most of appellants Irish republican support via subscriptions to the Irish People newspaper, the ordering of books, the writing of articles, and more.(Appendix D). However, what appellants mother also witnessed was the effects of being subjected to aggressive investigations and surveillances for an extended period of time had on appellant. To be candid, appellant started drinking heavily, this compounded with continuous complaints of being subjected to surveillances made the relationship with appellants mother turbulent and tempestuous. Things became so nightmarish that appellant would be held down and shot up with psychatric medication for refusing to take the psychatric medication volentarily.(Appendix E). The direct result of complaints of being harassed by law enforcement investigations.(Appendix F) Although, appellant can now argue with government lawyers over such issues. Early on in this ordeal appellant didn't know what F.I.S.A. was let alone what the government is allowed to do in consequence of appellants Irish republican support. Unfortunately, appellant is still estranged from appellants mother with the only contact in thirteen years being

said affidavit. The district courts assumption of appellants reasoning for this civil action could not be further from the truth.

To end, the district court ruled that appellants claim "falls squarley within the category "of being patently unsubstantial" and advances "bizarre conspiracy theories". This court has ruled that dismissal of such a case under rule 12(b)(1) is appropriate.(Best v. Kelly 39 F.3d 328 (1994). However, appellant has argued and shown that appellants claim does not fit the discription of being "so attenuated and substantial to be absolutely viod of merit".(Id; 39 F.3d at 332). Nor, is appellants claim "not distinguishable from allegations of "little green men".(Tooley v. Napolitino 586 F.3d 1005 (2009).

Hence, dismissal by the district court for lack of subject-matter jurisdiction, pursuant to F.R.C.P. Rule 12(b)(1), was not appropriate in this case.

NOTICE TO THE COURT

Before moving on, appellant would like to point out to the court that the Black"s Law Dictionary defines subject-matter jurisdiction as "jurisdiction over the nature of the case and the type of relief sought, the extent to which a court can rule on the conduct of persons or status of things". Therefore, by this definition, once the district court adjudicated it had lacked subject-matter jurisdiction in this case any and all ruling, thereafter, are to be viod.

However, appellant plans to argue all the other rulings by the district court, forthwith.

2. FAILURE TO ESTABLISH STANDING

The district court also dismissed appellants claim for failing to establish Article III standing. The district court ruled appellants claim as a whole is "mere conjecture". Therefore, by standing not established, jurisdiction is lacking forbidding adjudication of the claim by the district court.

To argue, the appellant believes that the appellees "urging" upon the district court to dismiss appellants claim for lack of subject matter jurisdiction on the

grounds appellants claim lacks standing may have left an effect on the court. Reason being, the district court reinforced its ruling by the U.S. Supreme Court holding that "individuals who believed themselves to be likely future subjects of F.I.S.A. surveillance lacked standing".(Clapper v. Amnesty International U.S.A. 558 U.S. 398 (2013). The district court would state that the plaintiffs in that case "merely speculate and made assumptions" about interceptions under F.I.S.A. and that observation pertains here as well.

However, that case concerned section 702 of F.I.S.A., 50 U.S.C.§ 1881a. The district court should know that what the U.S. Supreme Court outlined, for the plaintiff in that case, to establish Article III standing does not pertain to appellants case. The district court would state "plaintiff's standing to challenge defendants alleged surveillance under the PRISM program is clearly foreclosed by the Supreme Courts decision in Clapper v. Amnesty International U.S.A.".(Montgomery v Comey 300 f.supp. 3d 158 (2018). That holding does not apply here.

In contrast, as this court is aware, in this case in order for appellant to establish U.S. Constitution Article III standing, "an injury must be concrete, particularized, and actual, or imminent, fairly traceable to the challenged action, and redressable by a favorable ruling".(Lugan v. Defenders of Wildlife 504 U.S. 555 (1991)

Therefore, not to recite appellants entire claim or opposition. The appellant has been an active Irish republican supporter interacting with the An phoblacht newspaper in Ireland. Which shares the same address with the political party Sinn Fein that the U.S. State Department believes to be the political wing of the I.R.A... As well as interaction with the Irish Northern Aid Committee (I.N.A.C.) and the Irish People newspaper. Both of which was made to register under the Foreign Agents Registration Act (F.A.R.A. 22 U.S.C. § 611) and contrary to the district courts opinion, it was the district court that ordered it. Plus, due to its support the I.N.A.C. itself is said to be a terrorist organization. Also, due to appellants support appellant

has been said to be a member of the I.R.A... That compounded with F.I.S.A. 50 U.S.C. § 1801(e)(1)(B), that the information of a U.S. citizen interacting with a terrorist organization or its agents is "necessary" to the defense of the U.S. government.

Furthermore, that said and to be very clear, the F.I.S.A. surveillance is not the injury. But only allows the injury to occur. The injury comes from the improper conduct of those doing the investigating and surveilling to deter such support. As well, this injury can be redressed favorably. By the misconduct being made to stop, not the F.I.S.A. investigations, and appellant be given the information of who, how, and, where to go if it doesn't. As appellants prayer for relief askes. The reason for the ladder, contrary to what organization investigator Clifton had written. The appellants Irish republican support is still very much active with articles to the An Phoblacht newspaper.(Appendix G) As well as notifications to the Sinn Fein Headquarters in Ireland of legal matters effecting Irish republican supporters in the U.S. such as this case.(Appendix H) To mention a few.

Thus, as shown, appellant had established Article III standing for the district court to have jurisdiction to adjudicate appellants claim for all injuries named and all relief sought. The appellants claim should not have been dismissed for lack of standing.

3. FAILURE TO STATE A CLAIM UNDER F.I.S.A.

The district courts reasoning behind its ruling that appellant failed to state a claim under F.I.S.A. is a barrage of assumptions and contradictions. Appellant is accused of wanting money dameges contrary to appellants prayer for relief. Then scolded appellant for not going into the F.I.S.A. statute in detail. Which appellant was criticised for doing earlier in the courts opinion. Next, the court charges that appellant blames the appellees for every misfortune appellant suffered in the past two decades. Thus, egnoring the constants in appellants case. That its the government doing the abusing, the abuses mirror one another in different jurisdictions, and in each jurisdiction appellants Irish republican support is noted. On top of

this, continuously stating appellants allegations where not specific enough.

In contrast, as this court has stated concerning specifics in a F.I.S.A. claim, "The Federal Rules of Civil Procedure do not require a claimant to set out the precise facts on which the claim is based". This court went on to also say "we rejected the government protest that the complaint did not contain specifics facts supporting allegations of unconstitutional domestic surveillance. The only difference here is that foreign intelligence surveillance, authorized pursuant to F.I.S.A., is involved. That difference is important, as we shall discuss in a moment, but not to the question whether a complaint can survive a rule 12(b)(6) motion".(A.C.L.U. v. Barr 952 F.2d 457 (1991).

Furthermore, in regards to dameges, this court has also stated "F.I.S.A. recognizes two private remedies. Both are after-the-fact, rather than prospective: evidence obtained in violation of F.I.S.A. may be surpressed (50 U.S.C. § 1806(g); and dameges may be imposed for surveillence unlawfully conducted (50 U.S.C. § 1810)". (Id; 952 F.2d at 470). Although, things have changed a bit with the U.S. Patriot Act. As the district court somewhat noted. Congress enacted 18 U.S.C. § 2712 which incorperates a waiver of sovereign immunity into 1806 that does not apply to 1810. As the Ninth Circuit explained "section 1806 combined with 18 U.S.C. § 2712, renders the U.S. liable only for the use and disclosure of information by Federal officers and employees in a unlawful manner. Section 1810, in contrast, also creates liabilty for the actual collection of the information in the first place, targeting electronic surveillance, or disclosure, or use of that information".(Al-Haramain v. Obama 705 F.3d 845 (2012).

Nonetheless, in relation to appellant, contrary to the district courts opinion, appellant had gone into statutory detail in appellants prayer for relief. So much so, appellant wonders if the district court read it. Especially, in relation to F.I.S.A. 50 U.S.C. § 1806(d), which is encompassed by 1806(g), concerning appellant proclaimed to be an I.R.A. member during a taped interrogation for the State criminal matter

appellant is currently imprisoned. This includes the interrogators stating to have contact with New York where appellants Irish republican support took place and why said abuses mirror one another in different jurisdictions. This piece of discovery still eludes appellants possession. Yet, there is another piece of discovery with those parts of the interrogation redacted and therefore, inculpatory evidence, intended to be used against appellant.(Appendix I). To clarify, pursuant to F.I.S.A. 50 U.S.C. § 1806(d) it states, "Whenever any State-intends to enter into evidence or otherwise use or disclose in any trial hearing, or other proceeding on or before any court- any information obtained or derived from electronic surveillance of that aggrieved person pursuant to the authority of this subchapter, the State- shall notify that aggrieved person".

However, appellant had never before been in the State of Virginia and was for less than a day. How then did the information of appellant being an I.R.A. member come about? Since there is no such thing as a State F.I.S.A. case and nothing explains how 1806(d) is enforced at the State level or how a State defendant goes about obtaining the information when its not enforced.

Thus, appellants claim should not have been dismissed for failure to state a claim under F.I.S.A...

4. PATRIOT ACT CLAIMS

The district courts ruling here, like almost every other ruling in this matter, is it lacks subject-matter jurisdiction. This is relation to the appellee, U.S. Inspector General, Michael Horowits, continuously denying appellants request to look into appellants complaints of abuse of F.I.S.A. investigations, because they are not in the Inspector Generals Office (I.G.O.) jurisdiction. In essence, the district court lacks jurisdiction to review appellees claim of lack of jurisdiction. This would almost be comical if it wasn't for the fact that appellant believed this claim to be the most cut and dry out of all appellants claims.

In addition, the district court, again, accuses appellant of falsehoods. Contrary

to the courts opinion, the appellant did not want a "private cause of action" or compell appellee to do anything outside of what Congess specifically instructed the appellee to do pursuant to "U.S. Patriot Act" section 1001 Title X Misc... The U.S. Congess directed the appellee to create an office to investigate complaints of those experiencing abuse of F.I.S.A. and its amendments. Why this office was created and its contact information was to be broadcast over various media outlets. Along with annual reports of the complaints detailing the abuses, as well as the cost of the office to be submitted to Congess.(Appendix J)

Simply put, and as stated in appellants prayer for relief, appellant wanted appellee to look into appellants F.I.S.A. complaints and/or furnish appellant with the contact information of the office appellee was instructed to create by Congess. So that office can look into appellants abuse of F.I.S.A. complaints and if such abuses continue.

Thus, nothing that appellant requested was out of appellees jurisdiction. Plus, the district courts dismissal of appellants U.S. Patriot Act claim for lack of subject-matter jurisdiction was improper.

5. DECLATORY JUDGEMENT ACT

The district court dismissed appellants prayer for declatory relief for lack of jurisdiction. The appellant believes the courts reasoning for this dismissal was, again, flawed.

To elaberate, as pointed out in appellants previus argument concerning failure to state a claim under F.I.S.A... Appellant showed that this court recognized F.I.S.A. 50 U.S.C. § 1806(g) was a form of dameges. Which encompasses 1806(f) as well as 1806(d). As shown in appellants prayer for relief.

Furthermore, this issue with dameges under F.I.S.A. revolves around the misstep that the government has to acknowledge that they had conducted the F.I.S.A. surveillance in order to activate the right to ask for dameges, or anything else for that matter.(Construction and application of civil liabilty of F.I.S.A. 80 A.L.R.

Fed. 2d 179 at FN #10 "F.I.S.A. provides for notice of the fact that electronic surveillance has occured only in narrow circumstances that are incapable of affectuating the statatory cause of action in 1810 since the notice provision in 50 U.S.C. § 1806 is not triggered in situations where innocent individuals have been subject to unlawful electronic surveillance".)

However,in the case of appellant, the government showed its hand. When during a State interrogation appellant was said to be a member of the I.R.A. in a State appellant had just arrived and never before been. Then intended to use such information against appellant in a criminal trial. Therefore, this intention should have activated 1806(d). Instead, this incident is being treated as if it never happened.

Once again, to think that appellant has to rely on the appellee to acknowledge to have investigated appellant, in order for appellant to sue appellee, especially a case concerning appellees misconduct. Is a blatent example of conveluted nature of the wrongs with the F.I.S.A. statute.

Nevertheless, appellants prayer for declatory relief should not have been dismissed for lack of jurisdiction.

6. BIVINS CLAIMS

The district court dismissed appellants First Amendment "Bivins" claims for lack of jurisdiction.

In rebuttal, the reason for appellant bringing this claim under a "Bivins action" was appellants awareness to the obsticles that exist in bringing a civil liability F.I.S.A. claim alone. Some of which have been discussed but there are others. Such as discovery, which under F.I.S.A. "is designed to prevent disclosure of information relating to F.I.S.A. surveillance in adversary proceedings".(A.C.L.U. v. Barr 952 F.2d at 469). Not to mention, that any information obtained during a F.I.S.A. investigation not used for a F.I.S.A. prosacution may be destroyed.(F.I.S.A. 50 U.S.C. § 1806(i). Furthering the lopsidedness when bringing about such a claim. Which appellant has

already suffered concerning New York State prison investigation records of appellant. (Appendix K).

As a result of such obsticles, appellants objective was to obtain discovery for the independent information that would have otherwise been denied. As this court stated "in any lawsuit, the plaintiff may prove his case by direct or circumstantial evidence".(In re; Sealed Case 495 F.3d 139 (2007). Which is in line with the F.R.C.P. Rule 26(b)(1) that states "parties may obtain discovery regarding any non-privileged matter that is relevant to any party's claim or defense".

Even more, due to the F.I.S.A. aspect of this case, the simple then becomes complicated and invites convolution in consequence to the statutes unique nature. Especially, with a claim such as this, that entails lawful surveillance being conducted improperly, and such complications seeming to always benifit the government. Yet, this court was able to touch on the pulse of the claim when it said "that government agents violate the Constitution when they conduct surveillance with the intent of deterring membership in or destroying an association engaged in lawful conduct".(Id; 952 F.2d at 471). This court also went on to say a "complaint although not framed in those terms, could be interpreted to support a cause of action".(Id; 952 F.2d at 472) Fact is, appellants claim is very much framed in those terms. The only difference being the surveillance was allowed under F.I.S.A. due to appellants interaction and support.

Nevertheless, the district court ruled that appellant can not turn to a Federal Court for equitable relief, namely injunctive, under "Bivins" because this cause of action only allows for monetary dameges against defendants in the individual capacity. Even citing cases from this court and the U.S. Supreme Court to reinforce its position.

However, in appellants complaint, when naming the defendants, it clearly states this civil action was brought against appellees in their official and individual capacity. Plus, everything in the U.S. Supreme Courts opinion of the case for which this cause of action is named, allowing a Federal Court the ability to award money

damages for Fourth Amendment violations "in absence of affirmative action by Congress".(Bivins v. Six Unknown Named Agents 403 U.S. 388 (1971). Reinforces why a Federal Court has the authority to award equitable relief for First Amendment violations. In fact, this issue was specifically touched on in Justice Harlan's concurrence when stating "a general grant of jurisdiction to the Federal Courts by Congess is thought adequate to empower a Federal Court to grant equitable relief for all areas of subject-matter jurisdiction".(Id; 403 U.S. at 404). Thus, the prerequisite for equitable relief by a Federal Court being its subject-matter jurisdiction. Which appellant believes was established long ago in this case. Yet, the appellees and now the district court, which some may say more so, has come up with various reasons as to why a Federal Court can not adjudicate appellants claim

More to the point, to believe that a Federal Court can order money damages for abuses of the Fourth Amendment by the government but can not order the abuses to stop for First Amendment activities seems a bit toothless. Since it limits the Federal Courts ability to do what is was designed to do and what the U.S. Supreme Court says it to do "where federally protected rights have been invaded, it has been a rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief".(Id; 403 U.S. at 392)

Lastly, the appellant would ask, are the claims of someone supporting organizations the government placed terror labels upon, of experiencing blowback from the government for that support, during that said governments war on terror really so far fetched? If this same complaint was in another country, such as China or Russia, would it be so hard to comprehend? Has this government become so sanctimonious in its conduct that it is beyond reprouch. Especially knowing, that during the adversarial process of this civil action alone, appellant has suffered legal mail discarded, accused of abusing the system, bringing claims equivalent to little green men, and using this claim to give vioce to vague and unsubstantiated conspiracy theories . This all on the public record and in front of this court. What

does one think goes on when nobody is looking?

This all said, the appellants First Amendment claim brought under the "Bivins" cause of action should not have been dismissed for lack of jurisdiction.

7. THE FEDERAL RULES OF APPELLATE PROCEDURE RULE 4(a)(5) & RULE 4(a)(6) ISSUE.

In respect to the courts mandate for appellant to address the issue concerning appellants notice of appeal in relation to Federal Rules of Appellate Procedure (F.R.A.P.) Rule 4(a)(5) and Rule 4(a)(6). The appellant states as followed.

To begin, in appellants response to the courts order to show cause. The appellant presented evidence that appellant had not recieved the district courts ruling until after the F.R.A.P. Rule 4(a)(B) 60 day time limit had expired.

Furthermore, in relation to Rule 4(a)(5), appellant was required to sumit a motion for an extension of time to file a notice of appeal. However, appellant was not aware there was an issue until recieving the courts order to show cause that is dated June 2nd 2021. Since the 60 days from the District Courts February 24th 2021 ruling pursuant to Rule 4(a)(B) being April 25th 2021. Then, the additional 30 days allotted to submitt a motion for a time extension under Rule 4(a)(5) being May 25th 2021. Upon recieving the courts June 2nd 2021 show cause order allerting appellant of a problem with appellants notice of appeal. The time limits for both rules had been passed. The appellant could not possibly have filed a motion for a time extension for a time limit appellant had not known appellant had exceeded.

To continue, concerning Rule 4(a)(6) and the reopening of the time to file a appeal. Pursuant to Rule 4(a)(6)(A), the notice of the district courts judgement is governed by F.R.C.P. Rule 77(d). Rule 77(d) states the serving requirement of the courts judgement is governed by F.R.C.P. Rule 5. The F.R.C.P. Rule 5(b)(2)(C) states that the notification made by the court clerk via mail, as in this case, the "event service is complete upon mailing".

However, under Rule 5(b)(2)(E) concerning serving notification by electronic means, the "event service is complete upon transmission, but is not effective if

the serving party learns that it did not reach the person to be served". The appellant does not understand why this same latitude is not extended to service by mail.

Moreover, the courts are aware of the problems and variables that exist when mail is placed into the U.S. Postal Service, the very rules that this court has taken issue touches on the matter. The F.R.A.P. 4(c) concerning appeals by inmates confined in an institution states that if a prisoner files a notice of appeal it is timely "if it is deposited in the institutions internal mail system on or before the last day of filing". Thus, the court will not hold a prisoner accountable for the conduct of the mail service or prison when mailing filings to the court. However, and again, why isn't this same latitude applied to legal mail coming from the court to the prisoner. To believe such problems could only occur to mail when traveling in one direction is nieve to say the least. In fact, the appellant had shown evidence in the response to the courts order to show cause that appellant had not recieved the district courts ruling until May 4th 2021. In the courts June 2nd 2021 order the court states that appellants notice of appeal was filed on May 17th 2021. Therefore, upon appellant recieving the district courts ruling, sending the notice of appeal to the court, and the court filing appellants notice of appeal was just thirteen days. Well within Rule 4(a)(B) 60 day time limit. More to this point, the reason appellant has addressed these issues, as the court directed, at the end of appellants appellate brief as opposed to the beginning, is appellant had not recieved the courts November 8th 2021 order informing appellant to do so until December 12th, 2021.

To close, for the reasons just mentioned, appellant does not believe this matter fits the specifics of F.R.A.P. Rule 4(a)(5) or 4(a)(6). Nor should appellants appeal suffer any ramifications for not fulfilling any of the rules criteria. The appellant believes Rule 4(c) applies and should be construed to mailing from the court to a prisoner.

IN CONCLUSION

WHEREFORE, Joseph Michael Ladeairous, the appellant of the appellate brief before this most honorable court, prays that this court reverse the U.S. District Court for the District of Columbia and its granting of appellees, the U.S. Attorney General Merrik B. Garland and the U.S. Inspector General Michael Horowitz, motion to dismiss and its dismissal of appellants civil action, for the foregoing reasons set forth in this appellate brief.

December 14th 2021
Joseph Michael Ladeairous
#1433027
Augusta Correctional Center
1821 Estaline Valley Road
Craigsville Virginia 24430

Respectfully,

Joseph Michael Ladeairous
Pro-se Appellant

Subscribed and sworn to before me
this 15 day of December, 2021

Notary Public
My commission expires: 1/31/2024

Commonwealth Of Virginia
David Lee Sprouse - Notary Public
Commission No. 7519836
My Commission Expires 1/31/2024

CERTIFICATE OF COMPLIENCE

JOSEPH MICHAEL LADEAIROUS
Pro-se Appellant

V.

U.S. ATTORNEY GENERAL MERRIK B. GARLAND et. al.
Appellee

As required by federal rules of appellate procedure rule 32(a)(7) appellant certifies that appellants brief does not exceed 30 pages and contains 4,803 words, excluding the parts appellants brief that are exempted by Federal Rules of Appellate Procedure Rule 32(a)(7)(B)(iii).

Appellant declares under the penalty of perjury that the foregoing is true and correct.

Executed on December 14th 2021

Joseph Michael Ladeairous
Pro-se Appellant

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