

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOHN DOE I, JOHN DOE II, JOHN DOE III,
JOHN DOE IV, JANE DOE I, SUSAN E.
SCHUMANN, CHARLES RICHARDSON,
NANCY LESSIN, JEFFREY MCKENZIE,
REPRESENTATIVE JOHN CONYERS,
REPRESENTATIVE DENNIS KUCINICH,
REPRESENTATIVE JESSE JACKSON, JR.,
REPRESENTATIVE SHEILA JACKSON
LEE, REPRESENTATIVE JIM
MCDERMOTT and REPRESENTATIVE
JOSÉ E. SERRANO,

Plaintiffs,

v.

PRESIDENT GEORGE W. BUSH and
SECRETARY OF DEFENSE DONALD H.
RUMSFELD, each in their official capacity,
Defendants.

Civil Action
No.

COMPLAINT

Introduction

1. A coalition of plaintiffs, including United States soldiers, parents of United States soldiers, and Members of the United States Congress, hereby bring this action challenging, under Article I, § 8 of the United States Constitution, the authority of Defendant President George W. Bush and Defendant Secretary of Defense Donald H. Rumsfeld (hereinafter “Defendants”) to wage war against Iraq, absent a clear declaration of war by the United States Congress.

2. Plaintiffs seek declaratory and injunctive relief enjoining Defendants from waging war or military invasion of Iraq without a Congressional declaration of war.

Jurisdiction and Venue

3. Jurisdiction is proper in this Court under 28 U.S.C. §§ 1331, 1651, 2201-2202 in that Plaintiffs' claims arise under the United States Constitution, Article I, § 8.
4. Venue is proper in this Court under 28 U.S.C. § 1391 in that Plaintiffs include residents of Massachusetts.

Parties

5. Plaintiff John Doe I is a resident of Massachusetts and has served as a member of the Air Force Reserves for many years. In 1991, he was called into active duty to serve United States military campaigns, Operation Desert Storm and Operation Desert Shield, in the Persian Gulf. In 2001, he was called again into active duty to serve the United States military campaign against Afghanistan. Plaintiff John Doe I was recently placed on mandatory overtime military status at the military base where he serves and expects to be called into active duty again at any time for participation in a military invasion against Iraq.
6. Plaintiff John Doe II has been a member of the United States Marine Corps for three years. He is currently stationed in the Persian Gulf area in preparation for a military invasion against Iraq.

7. John Doe III is a resident of Massachusetts and serves as a sergeant in the Massachusetts National Guard. John Doe III's unit was activated on February 12, 2003, and he has reported for active duty for the forthcoming war with Iraq.
8. Plaintiffs John Doe IV and Jane Doe I are residents of Washington State and the parents of a United States Marine who is now stationed in the Persian Gulf area. Plaintiffs' son was recently sent to the Persian Gulf area in preparation for a military invasion against Iraq.
9. Plaintiff Susan E. Schumann is a resident of 67 Barnes Branch Road, Shelburne Falls, Massachusetts. Plaintiff Schumann's son is a member of the Massachusetts National Guard. He enlisted in the Massachusetts National Guard after serving in the United States Armed Forces. The Massachusetts National Guard recently activated his unit for imminent deployment to the Persian Gulf area in preparation for a military invasion of Iraq.
10. Plaintiffs Charles Richardson and Nancy Lessin are residents of 12 Park Lane, Jamaica Plain, Massachusetts. Plaintiff Richardson's son and Plaintiff Lessin's stepson is a United States Marine who is now stationed in the Persian Gulf area, in preparation for a military invasion of Iraq. Plaintiffs Richardson and Lessin are co-founders of Military Families Speak Out, an organization of people opposed to war in Iraq who have relatives or loved ones in the military.
11. Plaintiff Jeffrey McKenzie is a resident of 8127 West Avenue, Gasport, New York. Plaintiff McKenzie's son is an officer in the United States Army who is

now stationed in the Persian Gulf area, in preparation for a military invasion of Iraq. Plaintiff McKenzie is a co-founder of Military Families Speak Out.

12. Plaintiff John Conyers is a member of the United States House of Representatives representing the 14th Congressional District of Michigan.
13. Plaintiff Dennis Kucinich is a member of the United States House of Representatives representing the 10th Congressional District of Ohio.
14. Plaintiff Jesse Jackson, Jr. is a member of the United States House of Representatives representing the 2nd Congressional District of Illinois.
15. Plaintiff Sheila Jackson Lee is a member of the United States House of Representatives representing the 18th Congressional District of Texas.
16. Plaintiff Jim McDermott is a member of the United States House of Representatives representing the 7th Congressional District of Washington State.
17. Plaintiff José E. Serrano is a member of the United States House of Representatives representing the 16th Congressional District of New York.
18. Defendant George W. Bush is the President of the United States. He is sued in his official capacity as President.
19. Defendant Donald H. Rumsfeld is the Secretary of Defense of the United States. He is sued in his official capacity as the Secretary of Defense.

Factual Allegations

20. On information and belief, Defendants are preparing for an imminent military invasion of Iraq.

21. Defendants have ordered more than 100,000 United States troops to the Persian Gulf area in preparation for this war.
22. Defendant President George W. Bush does not intend to seek a Congressional declaration of war prior to launching a military invasion of Iraq. Defendant Bush has made numerous public statements in recent weeks that, as President, he holds the power to decide whether or not this nation will wage war on Iraq.
23. The United States Congress has not declared war against Iraq.
24. In October 2002, the United States Congress passed a resolution which is not a declaration of war, properly construed. To the extent that a broad construction of the resolution confers discretion upon the President to wage war, the resolution unconstitutionally cedes to the President the power to decide whether or not to send this nation into war.
25. By waging war against Iraq absent a Congressional declaration of war, Defendants will deny Plaintiff-Members of Congress their right, under Article I, § 8 of the United States Constitution, to vote on whether or not to declare war.
26. By waging war against Iraq absent a Congressional declaration of war, Defendants will endanger the lives of Plaintiffs John Doe I, John Doe II, and John Doe III, the sons of Plaintiffs John Doe IV and Jane Doe I, Susan E. Schumann, Charles Richardson and Nancy Lessin, Jeffrey McKenzie, and tens of thousands of similarly situated United States soldiers in an illegal and unconstitutional war.

FIRST CAUSE OF ACTION

27. Defendants' plans for an imminent military invasion of Iraq, absent a congressional declaration of war, violate Article I, § 8 of the United States Constitution, which requires that "Congress shall have Power...[t]o declare War."
28. By waging war against Iraq absent a congressional declaration of war, Defendants will cause irreparable harm to the Plaintiff soldiers and parents of soldiers, including, but not limited to, death, loss of family members, serious injury, and psychological trauma associated with the horrors of war.
29. By waging war against Iraq absent a congressional declaration of war, Defendants will cause irreparable harm to the Plaintiff Members of Congress who will be denied their constitutional right on whether or not to declare war.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court enter an Order as follows:

- (a) Declare that Defendants' plans for an imminent military invasion of Iraq, absent a Congressional declaration of war, violate Article I, § 8 of the United States Constitution;
- (b) Order that Defendants are enjoined from waging war against Iraq absent a Congressional declaration of war;
- (c) Award Plaintiffs their costs and reasonable attorneys' fees pursuant to 28 U.S.C. §2412(a) and (d); and
- (d) Grant such other relief as may be just and proper.

Respectfully submitted,
JOHN DOE, I, *et al.*,

By their Attorneys,

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