

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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JOHN CONYERS, in his capacity as a member :
of the United States House of Representa- :
tives, 2313 Rayburn House Office Building, :
Washington, D.C. 20515, (202) 225-5126; :

JUNE L. GREEN,

WILLIAM CLAY, individually and in his :
capacity as a member of the United States :
House of Representatives, 2264 Rayburn :
House Office Building, Washington, D.C., :
20515, (202) 225-2406; :

GEORGE W. CROCKETT, JR., individually and :
in his capacity as a member of the United :
States House of Representatives, 1531 :
Longworth House Office Building, Washing- :
ton, D.C., 20515, (202) 225-2261; :

RONALD V. DELLUMS, individually and in his :
capacity as a member of the United States :
House of Representatives, 2136 Rayburn :
House Office Building, Washington, D.C., :
20515, (202) 225-2661; :

MERVYN M. DYMALLY, individually and in his :
capacity as a member of the United States :
House of Representatives, 116 Longworth :
House Office Building, Washington, D.C., :
20515, (202) 225-5425; :

CIVIL ACTION NO.

DON EDWARDS, individually and in his :
capacity as a member of the United States :
House of Representatives, 2307 Rayburn :
House Office Building, Washington, D.C., :
20515, (202) 225-3072; :

83- 3430

WALTER FAUNTROY, individually and in his :
capacity as a member of the United States :
House of Representatives, 2350 Rayburn :
House Office Building, Washington, D.C., :
20515, (202) 225-8050; :

PARREN J. MITCHELL, individually and in :
his capacity as a member of the United :
States House of Representatives, 2367 :
Rayburn House Office Building, Washington, :
D.C., 20515, (202) 225-6211; :

GUS SAVAGE, individually and in his capa- :
city as a member of the United States :
House of Representatives, 1233 Longworth :
House Office Building, Washington, D.C., :
20515, (202) 225-0773; :

LOUIS STOKES, individually and in his :
capacity as a member of the United States :
House of Representatives, 2465 Rayburn :
House Office Building, Washington, D.C., :
20515, (202) 225-7032; and :

THEODORE S. WEISS, individually and in :
his capacity as a member of the United :
States House of Representatives, 132 :
Cannon House Office Building, Washington, :
D.C., 20515, (202) 225-5636, :

Plaintiffs, :

- vs - :

RONALD WILSON REAGAN, individually and in :
his capacity as a President of the United :
States, The White House, 1600 Pennsylv- :
ania Ave., Washington, D.C., 20500; :

CASPER W. WEINBERGER, individually and in :
his capacity as Secretary of Defense, The :
Pentagon, Annex, Arlington, Virginia, :
20307; :

GEORGE P. SHULTZ, individually and in his :
capacity as Secretary of State, Depart- :
ment of State, Washington, D.C., 20520; :
and :

GENERAL JOHN W. VESSEY, JR., individually :
and in his capacity as Chairman, Joint :
Chiefs of Staff. The Pentagon, Arlington, :
Virginia 20307, :

Defendants. :

-----X

COMPLAINT FOR PRELIMINARY INJUNCTION,
MANDAMUS AND DECLARATORY RELIEF

INTRODUCTION

1. This is an action brought by members of Congress who seek to enforce the provisions of the United States Constitution which grant to Congress the power to declare war.

2. This suit challenges the constitutionality of the invasion of the sovereign state of Grenada launched by the President of the United States, acting in concert with the other named defendants, on October 25, 1983. This invasion, initiated unilaterally by the defendants, and the ongoing military operations in Grenada constitute a violation of the authority of these congressional plaintiffs to declare war under Article I, Section 8, Clause 11 of the United States Constitution.

3. Plaintiffs have standing as members of Congress to seek judicial redress for the injury in fact to their individual offices and to the institution of which they are members, which injury is solely attributable to the unconstitutional actions of the defendant

4. Plaintiffs invoke the equitable powers of this Court to grant them a Writ of Mandamus and/or an injunction directing defendants Ronald Reagan, Casper W. Weinberger, George P. Shultz and Gene John W. Vessey, Jr., to withdraw all United States Armed Forces, plaintiffs seek a declaratory judgment holding the invasion of Grenada and the continued occupation and waging of war in Grenada by United States Armed Forces, illegal and in contravention of the United States Constitution.

II

JURISDICTION

3. Jurisdiction of this action is pursuant to Title 28 U.S.C. § 1331 (Federal Question); § 1361 (Mandamus); § 1651 (All Writs

Act); § 2202 (Declaratory Judgement); Title 5 U.S.C. § § 701-706 (Administrative Procedure Act); and the Constitution of the United States, Article I, Section 8, Clause 11.

III

PARTIES

A. PLAINTIFFS

4. Plaintiffs John Conyers, William Clay, George W. Crockett, Jr., Ronald V. Dellums, Mervyn M. Dymally, Don Edwards, Walter Fauntroy, Parren J. Mitchell, Gus Savage, Louis Stokes and Theodore S. Weiss are citizens of the United States, and members of the 98th Congress. They sue individually, as citizens and as members of Congress. Their interest in this litigation are as follows:

5. As Members of Congress, plaintiffs have unique standing to institute this litigation because the actions of defendants in initiating a war against the sovereign state of Grenada by ordering the invasion and military conquest of Grenada by the armed forces of the United States violate Article I, Section 8, Clause 11 of the United States Constitution which given to Congress the exclusive power to declare war. The failure of the President to seek the authorization of Congress deprives the plaintiffs of their rights under said clause to vote upon a declaration of war.

6. The injuries suffered by the plaintiff members of Congress are directly attributable to the actions of the Defendant Executive and his appointees in that they have violated the terms of Article I,

Section 8, Clause 11 of the United States Constitution which dictate the circumstances under which a war of aggression may be waged by the United States. The issuance of mandamus, injunctive and declaratory relief by the Court is necessary to restore to the Congress the power vested in it by the Constitution and to prevent the usurpation of such power by the Executive defendants who have nullified the constitutionally defined and lawful powers of plaintiff members of Congress and of the Congress as an institution.

B. DEFENDANTS

7. Defendant Ronald Reagan is President of the United States and Commander in Chief of the Armed Forces of the United States. In these capacities, it is his duty to "take care that the laws be faithfully executed," and "to uphold the Constitution of the United States." He is responsible for all actions of all the defendants and their agents.

8. Defendant Casper W. Weinberger is the Secretary of Defense and is the official appointed by the Executive to be responsible for the conduct of the Armed Forces of the United States.

9. Defendant George P. Shultz is the Secretary of State. In that capacity he is responsible for the foreign affairs of the Nation.

10. Defendant General John W. Vessey, Jr., is Chairman of the Joint Chiefs of Staff of all the Armed Forces of the United States and in that capacity has immediate and direct responsibility over all military personnel and activities in Grenada.

11. Each of the defendants is being sued in his individual and official capacities.

IV

STATEMENT OF FACTS 1/

13. On information and belief, on or about October 19, 1983, Prime Minister Maurice Bishop of Grenada and some members of his cabinet were seized and subsequently killed.

14. On October 25, President Reagan announced that he had ordered a pre-dawn invasion of Grenada by nearly 1,900 marines and armed airborne troops.

15. President Reagan said that the United States had received an "urgent formal request from the five Member Nations of the Organization of Eastern Caribbean States to assist in a joint effort to restore order and democracy on the island of Grenada." 2/

16. The United States is not a member of the Organization of Eastern Caribbean States.

17. President Reagan gave three reasons for the invasion:

"First...to protect innocent lives, including up to 1,000 Americans...

Second, to forestall further chaos.

And third, to assist in the restoration of conditions of law and order and of governmental

1/ Since the press was not permitted to accompany the U.S. invasion force into Grenada on October 25, 1983, and were kept out of Grenada until more than 48 hours after the invasion, all information of the first two days of the invasion and the conditions in Grenada available to plaintiffs is based on information given to the press by the State Department and other government sources.

2/ Text of President Reagan's Announcement on the landing on Grenada (October 25) by United States and Caribbean Troops, as made available by the White House. New York Times, October 26, 1983, p. A16.

institutions to the island of Grenada, where a brutal group of leftist thugs violently seized power, killing the Prime Minister, three cabinet ministers, two labor leaders and other civilians, including children." 3/

17. On information and belief, on Sunday, October 23, 1983, the Military Revolutionary Council of Grenada had offered the United States the opportunity to evacuate any American citizens who chose to leave Grenada.

18. On information and belief, the United States did not respond to this offer.

19. On information and belief, plans for the invasion of Grenada were first discussed among the defendants in the early morning hours of October 22. After a tentative decision to invade was made on October 22, military plans proceeded accordingly.

20. On information and belief, on Monday, October 24, 1983, the President met with some or all of the defendants and their agents and reached a final decision to proceed with the invasion.

21. On information and belief, at 5:00 A.M. on October 25, the invasion of the island of Grenada by U.S. Marines and Rangers ordered by President Reagan commenced.

22. On information and belief, at 8:15 A.M., on October 25, the President orally briefed members of Congress on the fact of the invasion.

23. On October 25, 1983, Defendant Shultz conducted a news conference in which he described President Reagan's motivation in ordering the invasion: "We see no responsible government in the country, we see arrests of leading figures, we see a shoot-on-sight curfew in effect.

3/ Id.

Reports - their validity uncertain but reports rife about arrests, deaths and so forth, and certainly random sporadic firing that one could hear...He felt that it is better under the circumstances to act before they might be hurt or be hostage than to take any chances, given the great uncertainty clearly present in the situation." ^{4/}

24. On information and belief, the dawn to dusk curfew imposed in Grenada was lifted on October 24 and at least four flights carrying some 30 persons were reported to have left the island during that day.

25. On or about the evening of October 25, 1983, the President formally notified the Congress in writing that American troops had invaded Grenada.

26. The October 25 invasion constituted a war against the state of Grenada and its people. On information and belief, the incidents of the war in Grenada include:

- a. On October 25, U.S. Forces bombed a civilian mental hospital in Grenada, killing at least 17 civilians;
- b. On October 29, the U.S. Military presence in Grenada included more than 5,600 troops. The force included an undetermined number of Army Rangers; more than 5,000 members of the 82nd Army Airborne; and about 600 Marines. Eleven Navy ships and 6 ships in the U.S.S. Independence battle group constituted part of the arsenal committed to Grenada;
- c. On October 31, a group of some 300 marines landed on the island of Carriacou located 20 miles north of Grenada. The force included 20 helicopters and 13 amphibious vehicles. The marines have subsequently been replaced by a group of the 82nd Airborne troops;

^{4/} Transcript of Secretary Shultz' news conference, New York Times, October 26, 1983, p. A18.

- d. On November 1, the death toll of American troops in Grenada was 18 and 88 wounded;
- e. The United States forces captured and held as prisoners 638 Cubans who, prior to the invasion, had been living and working in Grenada, in various capacities, including the fields of construction, public health, and education. Forty-three of the close to 800 Cubans living in Grenada prior to October 25 were members of the Cuban military;
- e. Cuban casualties at the hands of the U.S. forces numbered 71 killed and 57 wounded; and
- f. The Grenadian Revolutionary Army, which resisted the invasion, suffered casualties in numbers of 160 killed, 100 wounded and 68 captured. By day three of the invasion, three hundred Grenadians had been taken prisoner by U.S., and Grenadian civilian casualties numbered at least 17 dead.

27. The invasion, which the defendants first asserted was for the purpose of rescuing American citizens, including students at the St. George's University School of Medicine located on the Island, was, on information and belief, not necessary for that purpose as U.S. citizens were, in fact, safe at all times prior to the invasion.

28. On October 27, 1983, in a speech to the nation, the defendant Reagan proffered as a new and now primary reason for the invasion that Grenada was a "Soviet-Cuban colony being readied as a major military bastion to export terror and undermine democracy." ^{5/} The national security interests of the United States were invoked by the defendants after the fact of the invasion as the justification for what had originally only been cast as a rescue mission.

^{5/} New York Times, October 28, 1983.

29. On information and belief, within a few days after the October 27 invasion, all of the U.S. citizens seeking evacuation from Grenada had been transported from there.

30. On information and belief, the defendants nevertheless presently intend to maintain a U.S. military presence in Grenada in order to establish and support a new provisional government there.

31. On October 31, the 22nd Marine Amphibious Unit of 1,200 marines - part of the more than 5,600 member Grenada invasion force - was replaced by elements of the United States 82nd Airborne Division. The division spokesman, Major Douglas Frey, described their mission, "to secure the island and capture whatever leaders of the army remain." ^{6/}

32. On information and belief, U.S. forces now remain in Grenada at the direction of the defendants for an unspecified period of time, and for the express and sole purpose of installing a new government there. The stated aim of the defendants is to continue the occupation of Grenada until all resistance is overcome. This goal is the pursuit of the more than 5,000 United States troops who are in Grenada.

33. On October 28, the United States Senate approved a resolution declaring the provisions of the War Powers Act, 50 USC 1541 et seq., to be applicable to the Grenada war.

34. On November 1, the House of Representatives passed a similar measure.

V

CAUSE OF ACTION

35. Plaintiffs repeat and reallege each and every allegation above as if fully set forth herein.

36. The United States Congress has made no declaration of war against the sovereign state of Grenada.

^{6/} New York Times, November 1, 1983, p. A16.

37. On information and belief, the President did not consult with the United States Congress or any individual members thereof before ordering the invasion to proceed on October 25, 1983. He acted entirely unilaterally in launching this aggression.

38. Congress is granted sole and exclusive power to declare war under Article I, Section 8, Clause 11 of the Constitution of the United States.

39. As a result of the acts of the defendants, Congressional plaintiffs have been deprived of their exclusive right to commit the U.S. Military Forces to a war of aggression.

VI

IRREPARABLE INJURY

Plaintiffs have no adequate or complete remedy at law to redress the violations set forth herein. Plaintiffs will suffer irreparable harm and have suffered injury in fact from the acts of the defendants. The equitable powers of this court are required to preserve the separation of powers mandated by the Constitution.

VII

RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court grant relief as follows:

1. A declaratory judgment that the acts of defendant Reagan and the other defendants violate Article I, Section 8, Clause 11, of the United States Constitution;

2. A Writ of Mandamus and preliminary and permanent injunctions directing that the defendants immediately withdraw all United States Armed Forces, weapons, and military equipment from Grenada;

3. An award to plaintiffs of reasonable attorneys' fees and costs; and

4. An award of such other and further relief as this Court may deem just and proper.

DATED: November 17, 1983

RESPECTFULLY SUBMITTED,

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