

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**ENRIQUE TARRIO et al.,
Plaintiffs,**

Case No. 6:25-cv-998-WWB-DCI

v.

**UNITED STATES OF AMERICA et al.,
Defendants.**

AMICUS BRIEF OF HENRY MISHKOFF

As I noted in my motion for leave to file this brief:

This civil action is not actually a lawsuit.

This civil action is nothing more than an invoice.

I. IDENTIFICATION

I am Henry Mishkoff, a U.S. citizen living in Texas. (I am not an attorney.) My interest in the case (and the source of my authority) is that the plaintiffs are seeking a wholly undeserved windfall payment from the U.S. Treasury, which includes money that I have personally paid in taxes. In this brief, I explain why I strenuously object to the plaintiffs' attempt to steal my money.

II. OVERVIEW

Unlike most amicus briefs, this brief does not support either party in this case. Rather, I speak in opposition to the profound illegitimacy of the case itself.

Lawsuits typically feature two categories of parties: Plaintiffs and Defendants.

This lawsuit includes a third category of parties: Victims. And those victims are the American people.

When the Department of Justice (DOJ) is involved in a lawsuit, it often refers to its client as “the people,” the implication being that the DOJ represents the people of the United States. In this lawsuit, however, the DOJ actually has an *adversarial* relationship with the people of the United States.

Authorizing the payment of a hundred million dollars from the U.S. Treasury is the sole prerogative of Congress. However, as I explain in this brief, the Department of Justice is conspiring with the plaintiffs to unconstitutionally circumvent Congressional authority and to defraud the American people. More specifically, the President of the United States is attempting to raid the U.S. Treasury so he can pay off a gang of felons who were convicted of conspiring to overthrow the government of the United States at his urging.

III. THE SCHEME TO REWARD THE CRIMINALS

A. All the plaintiffs are felons.

Every one of the plaintiffs in this case was convicted of sedition in federal court for their activities in connection with the attack on the Capitol Building in Washington DC on January 6, 2021.

- **Enrique Tarrio** was sentenced to 22 years in prison and 36 months of supervised release on September 5, 2023.¹
- **Zachary Rehl** was sentenced to 15 years in prison and 36 months of supervised release on August 31, 2023.²
- **Ethan Nordean** was sentenced to 18 years in prison and 36 months of supervised release on September 1, 2023.³
- **Joseph Biggs** was sentenced to 17 years in prison and 36 months of supervised release on August 31, 2023.⁴
- **Dominic Pezzola** was sentenced to 10 years in prison and 36 months of supervised release on September 1, 2023.⁵

B. President Trump was essentially the criminal gang’s ringleader.

Donald Trump was charged with instigating the crimes of which the plaintiffs were convicted.

“After it became public on the afternoon of January 6 that the Vice President would not fraudulently alter the election results, a large and angry crowd – including many individuals whom the Defendant [President Trump] had

¹ <https://www.justice.gov/usao-dc/pr/proud-boys-leader-sentenced-22-years-prison-seditious-conspiracy-and-other-charges>

² <https://www.justice.gov/usao-dc/pr/two-leaders-proud-boys-sentenced-prison-seditious-conspiracy-and-other-charges-related-us>

³ <https://www.justice.gov/archives/opa/pr/proud-boys-leaders-sentenced-prison-roles-jan-6-capitol-breach>

⁴ <https://www.justice.gov/usao-dc/pr/two-leaders-proud-boys-sentenced-prison-seditious-conspiracy-and-other-charges-related-us>

⁵ <https://www.justice.gov/archives/opa/pr/proud-boys-leaders-sentenced-prison-roles-jan-6-capitol-breach>

deceived into believing the Vice President could and might change the election results – violently attacked the Capitol and halted the proceeding.”

United States of America v. Donald J. Trump, 1:23-cr-257 (D.D.C.), ¶ 10.e.

However, after he was reelected President of the United States, the charges against Mr. Trump were dropped – not because any court ever ruled that he did *not* instigate those crimes, but because Justice Department policy prohibits the prosecution of a sitting U.S. President.

“Special counsel Jack Smith filed a motion Monday to dismiss the election subversion case against President-elect Donald Trump, citing the longstanding policy of the Department of Justice (DOJ) against prosecuting sitting presidents. U.S. District Court Judge Tanya Chutkan granted the motion and dismissed the case.”⁶

C. President Trump spoke glowingly of the plaintiffs.

President Trump was gushingly appreciative of the illegal activities that Mr. Tarrio and the other felons who were convicted in connection with the crimes of January 6, 2021, undertook on his behalf.

“I love you guys.” – President Trump, clarifying his feelings for Enrique Tarrio and the other Proud Boys.⁷

“These are people who actually love our country.” – President Trump, referring to the criminals (including Mr. Tarrio) who were convicted and sentenced for their participation in the attack on the Capitol.⁸

⁶ <https://www.democracymocket.com/analysis/what-happens-to-trumps-indictments-once-he-takes-office/>

⁷ <https://newrepublic.com/post/194864/january-6-proud-boys-enrique-tarrio-trump-said-i-love-you>

⁸ <https://newrepublic.com/post/194864/january-6-proud-boys-enrique-tarrio-trump-said-i-love-you>

D. President Trump granted clemency to all the plaintiffs.

On the first day of his second term, President Trump pardoned or commuted the sentences of the criminals who had been convicted in association with the events of January 6, 2021, including the plaintiffs in this case.

“Donald Trump pardoned about 1,500 of his supporters who attacked the U.S. Capitol four years ago.”⁹

E. President Trump promised to “make things right” for the plaintiffs.

President Trump urged a gang of thugs to attack the Capitol. Then he relieved them of any legal responsibility for following his orders. And now he wants to use taxpayer funds to reward his favorite felons for doing his bidding.

“Mr. Tarrio said he was not sure what Mr. Trump had meant when he declared that he was trying to ‘make things right’ for the hundreds of Jan. 6 rioters who received his clemency.”¹⁰

F. The purpose of President Trump’s DOJ is to do his bidding.

Unlike previous Presidents who have maintained a “hands-off” relationship with the Department of Justice, President Trump has boasted that “his” DOJ does what he tells it to do. And Attorney General Pam Bondi is eager to follow the orders of President Trump.

“‘The Justice Department is not independent of the President of the United States,’ said Mike Davis, a lawyer and Republican activist who has advised Trump on DOJ issues and who said Bondi was doing exactly what Trump had promised. ‘Every federal prosecutor and agent reports to the deputy attorney general, who reports to the attorney general, who reports to the president, who is elected by all

⁹ <https://www.reuters.com/world/us/triumphant-trump-returns-white-house-launching-new-era-upheaval-2025-01-20/>

¹⁰ <https://www.nytimes.com/2025/05/04/us/politics/trump-tarrio-proud-boys-pardon.html>

Americans. Anyone who thinks otherwise proves that the Deep State is not a conspiracy theory.”¹¹

After he lost the 2020 election, Mr. Trump vowed that if he returned to the White House, he would assert control of the Justice Department and direct criminal investigations.¹² And indeed, as I write this, although we are less than half a year into President Trump’s second term, there are already many examples of his determination to impose his will on the DOJ, of which the following is only a tiny sample:

- On April 9, 2025, President Trump directed the Justice Department to investigate two officials from his first term who had become his critics.¹³
- On April 24, 2025, President Trump directed the Justice Department to investigate ActBlue, a major Democratic fundraising platform.¹⁴
- On June 4, 2025, President Trump directed the Justice Department to investigate whether individuals conspired to deceive the public about President Biden’s mental state.¹⁵

¹¹ <https://www.nbcnews.com/politics/justice-department/s-trumps-justice-department-now-rcna195289>

¹² <https://www.nytimes.com/2025/04/10/us/politics/trump-officials-justice-department.html>

¹³ <https://abcnews.go.com/Politics/trump-directs-doj-investigate-2-officials-term-critics/story?id=120658983>

¹⁴ <https://www.whitehouse.gov/fact-sheets/2025/04/fact-sheet-president-donald-j-trump-investigates-unlawful-straw-donor-and-foreign-contributions-in-american-elections/>

¹⁵ <https://apnews.com/article/joe-biden-investigation-autopen-james-comer-ae7013baea1f3da5417d02a6e83811ec>

G. The Ashli Babbitt settlement was a successful dry run.

On January 6, 2021, an armed Air Force veteran by the name of Ashli Babbitt was fatally shot by a police officer while she was acting as part of the mob that stormed the Capitol at the instigation of President Trump.¹⁶

The Capitol Police determined that the shooting of Ms. Babbitt “potentially saved Members [of Congress] and staff from serious injury and possible death.”¹⁷ Had she survived, Ms. Babbitt would likely have been subject to criminal charges, as were many others associated with the attack on the Capitol, including the plaintiffs in the current case.

On January 5, 2024, Ms. Babbitt’s family filed a lawsuit in federal court seeking 30 million dollars in damages for her “wrongful death.”¹⁸ Mr. Trump had praised Babbitt, saying that “we must all demand justice for Ashli and her family.”¹⁹ He later added that Ms. Babbitt “was innocently standing there... trying to sort of hold back the crowd,” despite clear video evidence to the contrary.²⁰

¹⁶ <https://www.cbsnews.com/news/ashli-babbitt-january-6-capitol-shooting-wrongful-death-lawsuit/>

¹⁷ <https://www.uscp.gov/media-center/press-releases/uscp-completes-internal-investigation-january-6-officer-involved>

¹⁸ <https://rollcall.com/2024/01/05/family-files-wrongful-death-lawsuit-over-jan-6-police-shooting/>

¹⁹ <https://19thnews.org/2025/05/ashli-babbitt-insurrection-capitol-riot-settlement/>

²⁰ <https://www.independent.co.uk/news/world/americas/us-politics/trump-ashli-babbitt-january-6-michael-byrd-b2721722.html>

Initially, the lawsuit was vigorously opposed by the Biden Justice Department.²¹ However, after the change in administration, the Trump Justice Department quickly reached a settlement in that case for a reported five million dollars.²²

The Babbitt case served as a blueprint for the current case. Like Ms. Babbitt, the current plaintiffs stormed the Capitol on January 6, 2021. Like Ms. Babbitt, the current plaintiffs have been praised by President Trump. And like Ms. Babbitt's case, the current case is likely to be treated with deference by a DOJ that is subservient to President Trump, in stark contrast to the way in which the Babbitt case was originally handled by an independent DOJ under the previous administration.

The Babbitt case proved that a colluding Executive Branch can expedite the pilferage of funds from the U.S. Treasury – without the constitutionally requisite approval of the Legislative Branch – by using the Judicial Branch as an unwitting pawn in the process. Now that the procedure has undergone a successful test drive, the current plaintiffs are following the “Babbitt” scheme in an attempt to enrich themselves to the tune of 100 million dollars.

If the Court does not put an end to these frivolous lawsuits that, with the eager complicity of the DOJ, treat public funds as their own personal piggy bank, extracting huge sums of money from the U.S. Treasury will become a popular pastime.

²¹ <https://www.justice.gov/usao-dc/pr/departments-justice-closes-investigation-death-ashli-babbitt>

²² <https://apnews.com/article/ashli-babbitt-trump-settlement-6de2a507ddac903c68c5d3a25f35f24c>

IV. CONCLUSION

This lawsuit is the ultimate example of a “case of first impression.” There are no guiding precedents, because the Executive Branch of the government of the United States has never before attempted to perpetrate such a diabolical fraud on the American people.

This civil action is not actually a lawsuit. Rather, it’s an attempt by President Trump and the Department of Justice to hijack the judicial process and to circumvent the rule of law for the most venal of reasons: to monetarily reward Donald Trump’s cronies as payment for their criminal activities.

If the Court attempts to apply laws and precedents as it does in “normal” cases, it will be doing a monumental disservice to the American people. This is not a “normal” case. This is not “business as usual.” This is a naked and cynical attempt to circumvent Congressional authority in order to steal from the American people by pillaging the U.S. Treasury.

Typically, a settlement in a civil case is considered to be a good thing: It means that the parties have reached an agreement and that further involvement of the court is unnecessary. The details of such a settlement are typically none of the court’s business – if the two parties wish to resolve a dispute, there is no reason for the court to determine whether that resolution is just or unjust. And indeed, if the defendants want to pay an “unreasonable” amount of money to the plaintiffs to settle a lawsuit, that’s their privilege.

But the defendants in this case are not playing with their own money. They're playing with *our* money. They're playing with *my* money. In the interest of justice and sound public policy, it is imperative that the Court not let the Executive Branch settle a baseless lawsuit with money that is not theirs to give away. It is incumbent on the Court to prevent the Justice Department from settling this case, or from defending it with such disdain that the jury has little choice but to extract tens of millions of dollars from the public treasury and to transfer that wealth to a gang of felons.

President Trump is welcome to pay his cronies out of his own pocket. But the Court cannot allow him to use public funds to thank his followers for committing crimes at his direction. Not only is this an atrocious abuse of power in and of itself, allowing this travesty to continue will only encourage other criminals to follow the example of these plaintiffs and continue to try to siphon funds from our Treasury.

The plaintiffs and the defendants in this case are on the same side. On the other side of this case are their victims: the American People. And the only thing that stands in the way of this horrific and unprecedented crime is the integrity and good sense of the Judicial System of the United States of America.

I beseech you not to let us down.

V. PRAYER

I respectfully ask the Court to subject any proposed settlement in this matter to heightened scrutiny. And because the claims in this lawsuit involve the distribution of substantial taxpayer funds, I urge the Court to reject any settlement if the Court concludes that either:

- The government is acting in bad faith; or
- The government is being unduly indifferent about pursuing its defense of the litigation; or
- The government is failing to protect the public interest by vigorously defending the claims.

If the adversarial process of litigation appears to have been compromised by collusion, lack of interest, or unwarranted acquiescence, the Court not only has the *authority* to safeguard the integrity of the proceedings and the public's trust in judicial outcomes, the Court has the *duty* to do so.

I pray that the Court exercise its discretion accordingly.

Respectfully submitted,

/s/ Henry Mishkoff

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was forwarded on July 2, 2025, to all counsel of record and all other parties via first-class US Mail.

/s/ Henry Mishkoff

Henry Mishkoff