


**In the  
Supreme Court of the United States**



TARGETED JUSTICE, INCORPORATED, ET AL.,

*Petitioners,*

v.

MERRICK B. GARLAND, ET AL.,

*Respondents.*

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**On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Fifth Circuit**

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**PETITION FOR REHEARING**

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## PETITION FOR REHEARING

Pursuant to this Court’s Rule 44.2, Petitioners Targeted Justice, Incorporated; Winter O. Calvert; Dr. Leonid Ber; Dr. Timothy Shelley; Karen Stewart; Armando Delatorre; Berta Jasmin Delatorre; J. D.; Deborah Mahanger; L. M., A Minor; Lindsay J. Penn; Melody Ann Hopson; Ana Robertson Miller; Yvonne Mendez; Devin Delainey Fraley; Susan Olsen; Jin Kang; and H. F., respectfully petition for rehearing of this Court’s October 7, 2024, order denying certiorari in this case.



## GROUND FOR REHEARING

This case presents the exceptionally rare situation in which a significant “intervening circumstance” that transpired on September 27, 2024 – two months after the filing of the Petition and scarcely three days before the Court’s conference. On that date, the Department of Defense’s Directive 5240.01 (DoDD 5240.01)<sup>1</sup> entered into effect, expanding the military’s involvement in domestic affairs by allowing military intelligence personnel to use lethal force in intelligence duties or

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<sup>1</sup> Department of Defense Directive 5240.01, <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/524001p.pdf> last accessed October 30, 2024.

activities in the homeland as part of its implementation of section 2.6 of Executive Order 12,333.<sup>2</sup>

DoDD 5240.01 legalized what Petitioners denounced in their complaint: the illegal use of military-grade weaponry—including the directed energy weapons—to torture Americans that the Federal Bureau of Investigation (FBI) improperly classifies as “domestic terrorists.” App.112a-115a. The new directive provides for the use of lethal force on civilians within the United States in support of law enforcement/intelligence activities.

The directive’s section 3.3(a)(2)(3) provides that the Defense Intelligence Components may provide assistance in:

“ . . . [R]esponding with assets with potential for lethality, or any situation in which it is reasonably foreseeable that providing the requested assistance may involve the use of force that is likely to result in lethal force, including death or serious bodily injury. It also includes all support to civilian law enforcement officials in situations where a confrontation between civilian law enforcement and civilian individuals or groups is reasonably anticipated.”

In light of this development, the Court should grant rehearing and certiorari in this case.

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<sup>2</sup> <https://dodsioo.defense.gov/Library/EO-12333/> Last accessed October 30, 2024.

Rule 44.2 authorizes a petition for rehearing based on “intervening circumstances of a substantial . . . effect.”

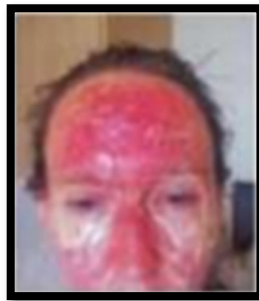
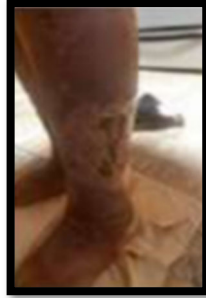
The first of these is the threat of death resulting from the legalization of lethal force against innocent Americans undoubtedly qualifies as intervening circumstances of a substantial effect that warrant rehearing. The second intervening circumstance that transpired on October 30th, 2024, consists on the ratification by the Social Security Administration (SSA) of Petitioner Len Ber’s Havana Syndrome condition that can no longer be deemed “fantastical” as the lower courts concluded.

#### **I. A LIFE OBLITERATED WITH THE STROKE OF A PEN**

Petitioners argued for the unconstitutionality of Respondent Federal Bureau of Investigation’s (FBI) unauthorized inclusion of U.S. persons such as themselves, improperly classified as “domestic terrorists,” in two secret categories of the Terrorist Screening Database (TSDB), without meeting the required reasonable suspicion terrorist criteria. Pet.p.18. Petitioners further alleged that this Court’s decision in *FBI v. Fikre*, 601 U.S. 234 (2024), issued after the court of appeals’ decision in this case, supported their Due Process claims regarding their improper inclusion in two secret categories of the TSDB without reasonable suspicion and under “secret criteria.” Pet. at 23. Petitioners alleged the two secret categories of the TSDB used as a human experimentation roster in violation of Executive Order 12,333. App.51a.

Petitioners alleged that once the FBI adds their names to those subcategories, listed American citizens and residents are subjected to a life of torture that

includes directed energy weapons attacks that burn and maim them, producing burns such as these: (App.116a)



**IMAGES OF VICTIMS OF  
DIRECTED ENERGY WEAPONS**



Most Petitioners also alleged to be afflicted with Havana Syndrome, a condition that has been found to be caused by radio frequency energy pulsations to the brain fired by directed energy weapons (App.114a). The only agency in the United States that operates directed energy weapons in the homeland is the Department of Defense, the same agency that has now granted permission to use lethal force on Petitioners and others equally situated.

Both the district court and court of appeals incorrectly concluded that Petitioners attributed to Respondents the directed energy weapons they suffer. Instead, Petitioners alleged that Respondents prepare and maintain the TSDB list where they were improperly placed, causing them to suffer directed energy weapons attacks even though they have not been accused, tried, or convicted of a terrorist offense in violation of the Eighth Amendment of the U.S. Constitution.

With the stroke of a pen, the FBI classifies as “domestic terrorists” individuals that do not meet the reasonable suspicion terrorist criteria for exerting their First Amendment protected activities. Consequently, innocent Americans such as Petitioners, whistleblowers, parents protesting at school board meetings, pro-lifers, and Catholics attending Latin mass,<sup>3</sup> are placed on two hidden categories of the TSDB reserved for those that do not represent a threat to national security yet are condemned to a life of torture.

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<sup>3</sup> *The FBI Doubles Down on Christians and White Supremacy in 2023* <https://www.uncoverdc.com/2023/02/08/the-fbi-doubles-down-on-christians-and-white-supremacy-in-2023> last accessed on October 30, 2024.

Since being placed on the TSDB, Petitioners alleged that they have been subjected to torture through the use of directed energy weapons. Now they fear for their lives.

DoDD 5240.01 is impermissibly vague, allowing for the only agency that operates directed energy weapons in the United States to provide: “Assistance in responding with assets with potential for lethality, or any situation in which it is reasonably foreseeable that providing the requested assistance may involve the use of force that is likely to result in lethal force, including death or serious bodily injury. It also includes all support to civilian law enforcement officials in situations where a confrontation between civilian law enforcement and civilian individuals or groups is reasonably anticipated.”

The directive was enacted under the authority of section 2.6 of Executive Order 12,333 that reads as follows:

2.6 Assistance to Law Enforcement Authorities. Agencies within the Intelligence Community are authorized to:

- (a) Cooperate with appropriate law enforcement agencies for the purpose of protecting the employees, information, property and facilities of any agency within the Intelligence Community;
- (b) Unless otherwise precluded by law or this Order, participate in law enforcement activities to investigate or prevent clandestine intelligence activities by foreign powers, or international terrorist or narcotics activities;

- (c) Provide specialized equipment, technical knowledge, or assistance of expert personnel for use by any department or agency, or, when lives are endangered, to support local law enforcement agencies. Provision of assistance by expert personnel shall be approved in each case by the General Counsel of the providing agency; and
- (d) Render any other assistance and cooperation to law enforcement authorities not precluded by applicable law.

DoDD 5240.01 represents a clear and present danger to Petitioners and anyone illegally placed on the two secret, unauthorized categories of the TSDB because the aggressors have now been granted license to murder them.

This unprecedented grant of authority for the use of military-grade weaponry against Americans including those improperly added to two secret categories of the TSDB warrants that this Court reverse and remand this case to the court of appeals for a full adjudication of its merits, including injunctive relief ordering the elimination of the two secret categories of the TSDB admittedly reserved for non-terrorists.

## **II. THE UNITED STATES GOVERNMENT HAS RECOGNIZED PETITIONER LEN BER'S HAVANA SYNDROME DIAGNOSIS IS REAL, NOT FANTASTICAL**

A second intervening cause that occurred on October 30th 2024 that warrants rehearing is the Social Security Administration's grant of disability benefits to Petitioner Dr. Len Ber for his Havana

Syndrome condition.<sup>4</sup> On information and belief, this is the first time that the SSA granted disability to a civilian on those grounds.

Mounting evidence from the National Academies of Science, (App.115a) as well as expert testimony provided in the Congressional Anomalous Health Incidents investigation proves that the sole cause of Havana Syndrome is attacks with pulsed, directed energy weapons.<sup>5</sup>

The district court's dismissal with prejudice and the court of appeals' ratification thereof deprives Petitioner Ber and the rest of the plaintiffs of their right to obtain redress for the real, not fantastical injuries that could have only been perpetrated upon them through directed energy weapons attacks. The interests of justice justify that this Court vacate the court of appeals' judgment, and remand for a full adjudication of the issues raised and argued on appeal which it refused to carry out.

Petitioners' injuries are real, not fantastical. No one can make up this atrocity. Yet, the lower courts shut the door on Petitioner's possibilities of ever stopping Petitioners' torture or being compensated for their suffering through a dismissal with prejudice of

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<sup>4</sup> <https://lenbermd.substack.com/p/disability-due-to-havana-syndrome>

<sup>5</sup> See transcript of United States House Homeland Security Subcommittee on Counterterrorism, Law Enforcement, and Intelligence Hearing: "Silent Weapons: Examining Foreign Anomalous Health Incidents Targeting Americans in the Homeland and Abroad." held on Wednesday, May 8, 2024 at 2:00 PM ET. [https://www.havanasyndrome.nl/static/doc/hearing\\_silent\\_weapons\\_20240510.pdf](https://www.havanasyndrome.nl/static/doc/hearing_silent_weapons_20240510.pdf).

their claims, concluding that they are “fantastical” and deprived the court of jurisdiction.

“Where intervening developments, or recent developments that we have reason to believe the court below did not fully consider, reveal a reasonable probability that the decision below rests upon a premise that the lower court would reject if given the opportunity for further consideration, and where it appears that such a redetermination may determine the ultimate outcome of the litigation, a GVR order is . . . potentially appropriate.” *Lawrence v. Chater*, 516 U.S. 163, 167 (1996).

Petitioners respectfully request that in the exercise of this Court’s authority under 28 U.S.C. § 2106, it enter an order vacating and remanding the case to the court of appeals for a full adjudication of its merits, allowing Petitioners to prove their case and bring a judicial end to the torture that they have been subjected to for years and have a chance at avoiding the legalized use of lethal force against them. The circumstances justify that this Court grant rehearing, grant the Petition for a writ of certiorari, and issue a GVR vacating the court of appeals’ panel decision and remanding the case to the Fifth Circuit Court of Appeals for the full adjudication of the case on its merits.



**CONCLUSION**

The petition for rehearing should be granted.

Respectfully submitted,

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November 1, 2024

**RULE 44.2 CERTIFICATE**

I hereby certify that that this Petition for Rehearing is presented in good faith and not for delay. In addition, the grounds of this petition are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.

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