

FBI Might Avoid Turning Over Documents in Texas Attack Lawsuit

What in the world was going on with the FBI agent? Was he under orders to encourage, and then to allow, this assault? Why did he not warn the law enforcement officers guarding the event? We know the FBI was politicized under Obama, but this? Todd Shepherd writes in the [told](#) Dallas television station KTVT in late 2016. “You have to stop that before that happens.”

While the federal government can be sued for damages in some situations, it also has immunity from tort lawsuits in cases where the government is carrying out policy so that persons cannot stop the federal government from carrying out their policy objectives by filing liability lawsuits. This is known as the “discretionary function” exception.

Joiner’s attorney, Trenton Roberts, hit back against the government’s motion to dismiss without discovery last week, arguing that “by conducting discovery, [Joiner] will be able to provide a more sufficient record for the Court to rule on the crucial factual questions pertinent to the ‘discretionary function.’”

“In arguing that [the FBI] has the prerogative to weigh ‘harm to innocent victims resulting from a covert operation’ against the need for ‘maintaining secrecy,’ Defendant is effectively claiming that the FBI had discretion to allow potentially hundreds of American citizens to be attacked in a dubious attempt to maintain [the FBI agent’s] cover,” Roberts wrote in the filing.

“Put simply, Defendant’s motion to dismiss would provide any law enforcement officer immunity to aid or assist a terrorist

massacre on American soil, in the name of 'maintaining secrecy.' This is simply not the law," Roberts noted, adding later, "the judgment exercised by the FBI was not of the kind that Congress intended to shield from civil claims."

It is not uncommon in civil cases for discovery to happen between the litigating parties even though a motion for dismissal will be ruled upon later.

At various points in 2017, Republican senators Ted Cruz (Texas), Chuck Grassley (Iowa), and Ron Johnson (Wis.), all made inquiries to the Justice Department about the issue, especially after a '60 Minutes' report in March highlighted for a national audience the FBI's close proximity to the attack.

In a May 2017 [held a fundraiser](#) at the Curtis Culwell Center in Garland called, "Stand with the Prophet in Honor and Respect." The fundraiser drew heavy protests...