

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Gurvey v. Vidal

Gurvey · No. 1:23-cv-3549 (JMC) · Decided March 6, 2026

SUMMARY

The United States District Court for the District of Columbia granted the USPTO Director’s motion to dismiss Amy Gurvey’s amended complaint and dismissed all claims against all defendants. The court held that challenges to patent term adjustments belonged exclusively in the Eastern District of Virginia and were untimely, while Gurvey’s APA, constitutional, and FOIA claims were also barred or inadequately pleaded. The court dismissed the remaining claims under Federal Rule of Civil Procedure 8 and denied pending motions to amend and transfer as moot or futile.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	Jia M. Cobb
JURISDICTION	United States District Court for the District of Columbia
DECIDED	March 6, 2026
DOCKET	1:23-cv-3549 (JMC)
DISPOSITION	dismissed
PROCEDURAL POSTURE	Defendant moved to dismiss the amended complaint under Federal Rules of Civil Procedure 12(b)(1), 12(b)(3), and 12(b)(6), or alternatively for summary judgment. The court granted dismissal, denied the alternative summary-judgment motion as moot, dismissed all claims against all defendants, and denied pending motions and requests for leave to amend as moot or futile.
STANDARD OF REVIEW	For Rule 12(b)(1), the court presumed the cause lay outside federal jurisdiction and treated factual allegations as true, affording the plaintiff the benefit of reasonable inferences. For Rule 12(b)(3), the court accepted well-pleaded venue allegations as true, drew reasonable inferences for the plaintiff, resolved factual conflicts in the plaintiff's favor, and could consider material outside the pleadings. For Rule 12(b)(6), the court considered whether the complaint stated a plausible claim for relief, accepting well-pleaded factual allegations as true. The court also applied Rule 8(a)(2)'s requirement of a short and plain statement showing entitlement to relief.

PRECEDENTIAL VALUE	Published memorandum opinion of a United States district court; persuasive authority within the District of Columbia but not binding precedent beyond the court's own rulings.
PARTIES	Amy R. Gurvey v. John A. Squires, Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, Wynn Coggins, David Berdan, Will Covey, William Griffin, Asli Carome, James Payne, Dipen Patel, John Doe defendants

TOPICS

motions to dismiss

statute of limitations

venue

patent law

administrative procedure act

PRACTICE AREAS

civil procedure

intellectual property

administrative law

constitutional law

civil rights

QUESTIONS PRESENTED

1. Whether the District of Columbia was an improper venue for Gurvey's patent-term-adjustment challenge and whether that challenge was timely.
2. Whether Gurvey's APA claims were barred by the six-year statute of limitations.
3. Whether Gurvey stated a viable Bivens claim for alleged First Amendment retaliation or Fifth Amendment harm by USPTO officers.
4. Whether Gurvey's FOIA claim was barred by the statute of limitations and failed to satisfy Rule 8.
5. Whether the remaining allegations failed to provide a short and plain statement under Rule 8(a)(2).
6. Whether further amendment would be futile or otherwise improper.
7. Whether the action should be transferred to the Court of Federal Claims rather than dismissed.

HOLDINGS

1. The District of Columbia was not the proper venue for Gurvey's patent-term-adjustment challenge, and dismissal rather than transfer was appropriate because the challenge was filed after the statutory 180-day deadline.
2. Gurvey's APA claims were untimely and had to be dismissed because the alleged rulemaking occurred more than six years before suit.
3. Gurvey failed to state a viable constitutional claim because the Supreme Court has not recognized a Bivens remedy for First Amendment retaliation and the court would not extend Bivens to her Fifth Amendment claim.
4. The FOIA claim was dismissed as untimely and insufficiently pleaded under Rule 8.
5. The court could dismiss the remaining claims because the amended complaint did not provide a short and plain statement connecting its numerous allegations to viable causes of action.

6. Leave to file additional amended complaints was properly denied because the proposed amendments would be futile, duplicative, and would further abuse the judicial process.

KEY QUOTATIONS

“contain[s] sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” (ECF Page ID 2)

“a short and plain statement of the claim showing that the pleader is entitled to relief.” (ECF Page ID 5)

“Adding more defendants does nothing to cure the problems the Court has identified, so granting leave to do so would be futile.” (ECF Page ID 7)

FACTUAL BACKGROUND

Curvey alleged that she submitted patent applications to the USPTO around 2005 and received action on them in February 2009. She claimed USPTO delay harmed her patent term and enabled infringement, and alleged later harassment, retaliation, refusal to accept correspondence, and unlawful rulemaking. She also asserted constitutional, APA, and FOIA claims, but provided little detail about the challenged agency action or FOIA requests. Her amended complaint included broad allegations concerning patents, third parties, attorneys, other litigation, and unnamed defendants.

PROCEDURAL HISTORY

Curvey initially filed suit and was granted leave to amend on March 3, 2025. She then filed an amended complaint asserting claims concerning patent-term adjustment, USPTO conduct and rules, constitutional retaliation, and FOIA requests. The court concluded that the patent-term-adjustment claim was filed in the wrong venue and was untimely, the APA and FOIA claims were time-barred, the constitutional claims did not support a viable Bivens remedy, and the remaining allegations failed to satisfy Rule 8. The court also denied further amendments as futile, duplicative, and indicative of abuse of process, and declined to transfer the case to the Court of Federal Claims.

DISPOSITION

dismissed

CASES CITED

- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Sparrow v. United Air Lines, Inc., 216 F.3d 1111, 1113 (D.C. Cir. 2000)
- Astakhov v. U.S. Citizenship & Immigr. Servs., 698 F. Supp. 3d 135, 140 (D.D.C. 2023)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Erickson v. Pardus, 551 U.S. 89, 94 (2007)
- Guymon v. Vidal, No. 1:23-cv-1302, 2025 WL 77390, at *2 (E.D. Va. Jan. 10, 2025)
- Pfizer, Inc. v. Lee, 811 F.3d 466, 468 (Fed. Cir. 2016)

- *Mendoza v. Perez*, 754 F.3d 1002, 1018 (D.C. Cir. 2014)
- *Bivens v. Six Unknown Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971)
- *Egbert v. Boule*, 596 U.S. 482, 492, 498-99 (2022)
- *Hidalgo v. F.B.I.*, 344 F.3d 1256, 1259 (D.C. Cir. 2003)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Brown v. WMATA*, 164 F. Supp. 3d 33, 35 (D.D.C. 2016)
- *Hamrick v. United States*, No. 10-cv-857, 2010 WL 3324721, at *1 (D.D.C. Aug. 24, 2010)
- *Ciralsky v. CIA*, 355 F.3d 661, 668-69 (D.C. Cir. 2004)