

Rocky Anderson says there are enough facts for NSA lawsuit to proceed

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Courts • Judge weighs arguments on whether evidence meets standard for lawsuit.



Chris Detrick | The Salt Lake Tribune Presidential candidate Rocky Anderson says it's time for Americans to go beyond the two-pa

By Nate Carlisle The Salt Lake Tribune · July 15, 2016 12:32 pm

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Former Salt Lake City Mayor Rocky Anderson on Thursday went against lawyers for the National Security Administration, arguing his federal class-action lawsuit over surveillance during the 2002 Winter Olympics should proceed.

"We are not alleging the possibility" that communications were collected, Anderson told U.S. District Judge Robert Shelby. "We are alleging facts."

Thursday's hearing didn't weigh in on the merits of mass surveillance. Instead, Shelby listened to arguments about whether the facts Anderson alleges meet the legal standards for bringing a lawsuit.

The federal government has not acknowledged any surveillance during the Olympics and has contended Anderson has no evidence any of his plaintiffs were surveilled.

A lawyer for the NSA, Caroline Anderson, contended that the former mayor doesn't have enough evidence to continue. She said the plaintiffs are making assumptions and inferring connections — from the existence of a mass surveillance program during the Olympics to the idea that the government still has any such communications 14 years after the games.

"There's simply been nothing to raise that from the possibility level to the plausibility level," Caroline Anderson said. She is no relation to the former mayor.

Rocky Anderson pointed out the NSA is not denying any of his allegations. He said he has offered the most specific facts he can given the secretive nature of the surveillance programs.

"I wish I could describe the people who have come forward or the people I've tracked down," the former mayor said.

"We're not going to do that today," Shelby replied.

Shelby is expected to rule in the coming weeks on whether the lawsuit should be dismissed. If he allows the case to proceed, it could move to what lawyers call a discovery phase, where the NSA could be forced to provide documents that get to the heart of the lawsuit.

In 2013, the Wall Street Journal reported that the NSA, working with telecommunication companies, monitored phone calls and text messages during the Salt Lake City Olympics.

Rocky Anderson, who was mayor during the games, has cited that report and documents in the public record, including those from other lawsuits against the NSA, to build the class-action lawsuit he filed last year.

His clients are a group of people who believe their communications were collected during the games. One of those plaintiffs, state Sen. Howard Stephenson, was in the gallery on Thursday.

"I want to make sure the citizens know the boundaries they have in their privacy," Stephenson said after the hearing.

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