

Individual Right to Sue Government over NSA Snooping Severely Limited by Court Ruling

August 28, 2015 – A three judge panel from the US Court of Appeals in Washington, DC has overturned a lower court ruling requiring the NSA not to collect phone meta data on calls placed or received by Larry Klayman, the plaintiff in the case. Klayman had sued, using information leaked by Edward Snowden to claim that the government was unlawfully retaining information on his calls; initially winning his case.

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In a unanimous ruling, the appeals court ruled that in order for Klayman to prevail, he first had to prove that his information had been intercepted and stored by the NSA. The court said that he couldn't simply use conjecture and assume that his data was included with other stored data in the NSA program.

The ruling referred the case back to the lower court to determine if Klayman could produce further evidence showing his information had been swept up in the program. The judges did agree that it was likely that it had been but that because the program was secret in nature, it may be difficult or impossible for him to prove.

The case appears to create a Catch22 situation for anyone who simply wants the government to leave them alone. By its ruling, the court is allowing a program that is clearly unconstitutional to continue to operate and making it nearly impossible for anyone to challenge the program because they can't get standing with the court without actual documentation showing that their phone was targeted by the NSA.

by Jim Malmberg

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