

Hijacking Our Courts for Terrorists

Earlier this year, U.S. national security officials authorized lethal action against Anwar al-Awlaki, a militant Islamic cleric based in Yemen. Al-Awlaki and his al Qaeda-affiliate group have been linked to the massacre at Fort Hood, the attempted Christmas Day airplane bombing over



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Detroit, and the recent plot to blow up Chicago-bound cargo planes. Remarkably, al-Awlaki's formal designation as a "Global Terrorist" not only made him a high-priority target, it also made him the recipient of the *pro bono* legal assistance of American activists in a federal court action.

This lawsuit, which requests an injunction preventing attacks on al-Awlaki, opens an alarming new front in the activist campaign to judicially impose a myopic view of "civil liberties" on U.S. anti-terror decisions. Since 9/11, these ideologues have, with the help of our courts, secured criminal defendant rights for enemy combatants; invalidated parts of the USA Patriot Act; and forestalled invaluable surveillance activities. As a result, those who work tirelessly to keep America safe have fewer tools with which to do their job.

Now, the ACLU and the Center for Constitutional Rights (CCR), the architects of al-Awlaki's suit, are going one step further — they seek direct judicial involvement in military strategy. Their suit argues that no U.S. operation can go after al-Awlaki unless officials prove he poses an imminent threat and that no means other than lethal force can reasonably neutralize the threat.

The unconventional war thrust upon America provided activists a long-awaited opportunity to advance their radical legal

theories — previously relegated to scholarly journals — in court, where they can directly undermine national security. For instance, suits like the one brought on behalf of al-Awlaki could severely curtail the use of unmanned Predator drones, leading to increased U.S. military and civilian casualties once courts force anti-terror operations to rely on more land assaults. Additionally, successful civilian court challenges to the detainment of terror suspects can return enemy soldiers to the battlefield. In fact, numerous former Guantanamo Bay detainees already populate the upper ranks of the Yemen-based al Qaeda group's leadership.

America has reached a fork in the road, and the time has come for us to make a decisive choice. We can treat terrorists like common criminals who are entitled to Miranda rights and criminal trials, providing them an unparalleled platform for propaganda and a rich source of intelligence for the architects of future attacks. Or we can be fully committed to ensuring the security of our nation by rejecting misguided legal campaigns and returning control over national and homeland security decisions to the executive and legislative branches.

Undermining national security

With so little margin for error, can America afford to have the judiciary and agenda-driven lawyers deciding how to keep us safe from foreign terrorism?



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