

NSA warrantless surveillance controversy / Judge Taylor was right to rule program unconstitutional

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Position: Judge Taylor was right to rule program unconstitutional

This position addresses the topic NSA warrantless surveillance controversy.

For this position

“ Let's hope the higher courts do not allow the president to break the law ”

From Warrantless Wiretap Program in Doubt, by Helen Thomas (*Seattle Post-Intelligencer*, August 25, 2006) (view)

“ The [Fourth A]mendment protects a general right of the people to "be secure in their persons, houses, papers, and effects." It hardly grants the government an unfettered right to snoop so long as it doesn't use the information to arrest anyone. ”

From Unbalanced to the right, by Robert Robb (*The Arizona Republic*, August 23, 2006) (view)

“ I will venture a partial prediction: If the appellate judges do not hide behind the vacuous standing and state secrets arguments, they will uphold Judge Taylor's ruling. On the merits, the illegality of the NSA program is too clear to elide. ”

From ACLU v. NSA: "A Fearless and Independent Judiciary", by Geoffrey R. Stone (*The Huffington Post*, August 19, 2006) (view)

“ But for now, with a careful, thoroughly grounded opinion, one judge in Michigan has done what 535 members of Congress have so abysmally failed to do. She has reasserted the rule of law over a lawless administration and shown why issues of this kind belong within the constitutional process created more than two centuries ago to handle them. ”

From Ruling for the Law, by The New York Times editorial board (*The New York Times*, August 18, 2006) (view)

“ "Bush has done these things by simply asserting that the powers of the presidency enumerated in Article II of the Constitution - particularly the clause making him the "Commander in Chief of the Army and Navy" - are much more sweeping than previously imagined. In short, he has acted like a king. Fortunately, the courts have begun to rein in his royal ambitions." ”

From Wiretap ruling affirms that presidents aren't monarchs, by USA Today editorial board (*USA Today*, August 18, 2006) (view)

“ "The court's decision today reaffirms that even in times of war, the president is bound by the rule of law and constrained by the protections guaranteed to Americans by the Bill of Rights. And that the Bush administration simply has no justification for acting outside the parameters of the law." ”

From The Bush doctrine under surveillance, by Glenn Greenwald (*Salon.com*, August 18, 2006) (view)

“ "The Bill of Rights is a constant reminder that the ends do not justify some means. Surely, there would be less crime and more safety if the police could search anyone's person or property, at any time, without a level of suspicion that meets the legal definition of probable cause. But a society that values privacy and dignity does not accord the police such authority, even when the objective is fighting terrorism." ”

From Every Executive Needs a Limit, by Erwin Chemerinsky (*Slate*, August 18, 2006) (view)

Against this position

“ "Judge Taylor's ruling, he said, consisted of "just a few pages of general ruminations about the Fourth Amendment, much of it incomplete and some of it simply incorrect." Now, on the basis of such specious reasoning, she is ordering that the program be shut down this week." ”

From Crippling terrorist surveillance, by The Washington Times editorial board (*The Washington Times*, October 2, 2006) (view)

“ "Taylor ended up with the case because of forum-shopping: filing multiple lawsuits in quest of a favorable venue. With the executive and legislative branches in Republican hands, liberals count on activists in the federal judiciary such as Taylor. That explains why normally censorious legal scholars tend to excuse her shoddy judicial opinion and ethical trespassing." ”

From Eavesdropping ruling a judicial farce, by Robert Novak (*Chicago Sun-Times*, August 28, 2006) (view)

“ "President Bush has made mistakes in his conduct of the war on terror. But thanks in part to Judge Taylor's ruling, voters this November will be asking themselves whether they would rather be governed by a political party that thinks Islamic terror is the greatest threat to Americans, or by a political party which is more concerned about Wal-Mart." ”

From A law unto herself: Judge Taylor shows why Dems can't be trusted, by Jack Kelly

(*Pittsburgh Post-Gazette*, August 27, 2006) (view)

“ "Early in her opinion she refers to "the War on Terror of this administration." In other words, this is not her war and it's not America's war, it's George W. Bush's war, and the judge was clearly determined to hold at least one aspect of that war — the NSA surveillance program — unconstitutional. She did so based on a deeply flawed rationale." ”

From War, law and justice, by David B. Rivkin Jr., Lee A. Casey (*The Washington Times*, August 24, 2006) (view)

“ "For those who approve of the outcome , the judge's opinion is counterproductive. It will be harder to defend upon appeal than a more careful decision. It suggests that there are no good legal arguments against the program, just petulance and outrage and antipathy toward President Bush." ”

From A Law Unto Herself, by Ann Althouse (*The New York Times*, August 23, 2006) (view)

“ "There is her extension of constitutional rights to terror suspects in other countries. There is her abdication of a judicial tradition giving the chief executive wide latitude in defending the nation during time of conflict. There is her assertion, as a matter of fact, that the most controversial issues of the case are self-evidently settled." ”

From Politics over justice, by Jonathan Gurwitz (*San Antonio Express-News*, August 22, 2006) (view)

“ "But her decision is all the more noteworthy for coming on the heels of the surveillance-driven roll up of the terrorist plot in Britain to blow up U.S.-bound airliners. In this environment, monitoring the communications of our enemies is neither a luxury nor some sinister plot to chill domestic dissent. It is a matter of life and death." ”

From President Taylor, by The Wall Street Journal editorial board (*The Wall Street Journal*, August 18, 2006) (view)

“ "Anyone who knows what legal analysis and legal argument look like -- anyone who knows the requisites of legal reasoning -- must look on the handiwork of Judge Anna Diggs Taylor in the NSA case in amazement. It is a pathetic piece of work. If it had been submitted by a student in my second year legal writing class at the University of St. Thomas Law School, it would have earned a failing grade." ”

From Who's Afraid of Anna Diggs Taylor?, by Scott Johnson (*Power Line*, August 18, 2006) (view)

“ "One of the serious weaknesses of our federal judicial system is that in many cases, plaintiffs can forum-shop for a favorable district or judge." ”

From Judge Ignores Precedent, Holds NSA Program "Unconstitutional", by John Hinderaker (*Power Line*, August 17, 2006) (view)

Mixed on this position

“ "The decision was on firmer ground in ruling that this sort of surveillance must be governed by the Foreign Intelligence Surveillance Act, enacted in 1978 to regulate domestic wiretapping aimed at gathering foreign intelligence. That would require the NSA to obtain warrants." ”

From Eavesdropping within the law, by Chicago Tribune editorial board (*Chicago Tribune*, August 20, 2006) (view)

“ "Taylor employs plenty of florid rhetoric in the opinion, comparing President Bush with King George III and at times saying "obviously" and "undisputedly" the wiretap program violates the Constitution. But her arguments show a profound misunderstanding of the Bill of Rights, so it's unlikely to persuade appellate judges. And the main constitutional question remains whether these wiretaps are considered unreasonable searches under the Fourth Amendment." ”

From Wiretap decision goes over the top, by Rocky Mountain News editorial board (*Rocky Mountain News*, August 19, 2006) (view)

“ "Unfortunately, the decision yesterday by a federal district court in Detroit, striking down the NSA's program, is neither careful nor scholarly, and it is hard-hitting only in the sense that a bludgeon is hard-hitting." ”

From A Judicial Misfire, by The Washington Post editorial board (*The Washington Post*, August 18, 2006) (view)

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