



U.S. DEPARTMENT OF JUSTICE
U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT
National Security Division
2015 JUN 10 PM 4:00

Washington, D.C. 20530

LEEANN FLYNN HALL
CLERK OF COURT

June 10, 2015

The Honorable Michael W. Mosman
United States Foreign Intelligence Surveillance Court
Washington, D.C. 20001

Re: Docket No. Misc. No. 15-01

Dear Judge Mosman:

To ensure that the Court and counsel are promptly informed of a recent development in ACLU v. Clapper, No. 14-42 (May 7, 2015), enclosed is a June 9, 2015 order of the Second Circuit Court of Appeals. In light of recent legislative developments, the order directs the parties in that litigation to submit by July 24, 2015 supplemental briefs regarding the effect of the USA FREEDOM Act on the case and “in particular whether any or all of the claims asserted by the plaintiffs-appellants have been rendered moot as a result of that legislation.” The order also stayed issuance of the court’s mandate pending the parties’ supplemental briefing and extended the deadline for the submission of any petitions for rehearing.

Sincerely,

Robert P. Boyer, Jr.
Deputy Section Chief, Operations
Office of Intelligence

cc: Kenneth T. Cuccinelli, II (counsel for Movants)

S.D.N.Y.
13-cv-3994
Pauley, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 9th day of June, two thousand fifteen.

Present:

Robert D. Sack,
Gerard E. Lynch,
Circuit Judges,
Vernon S. Broderick,
District Judge.

American Civil Liberties Union, American Civil Liberties Union Foundation, New York Civil Liberties Union, New York Civil Liberties Union Foundation.

Plaintiffs-Appellants.

v.

14-42

James R. Clapper, in his official capacity as Director of National Intelligence, Michael S. Rogers, in his official capacity as Director of the National Security Agency and Chief of the Central Security Service, Ashton B. Carter, in his official capacity as Secretary of Defense, Loretta E. Lynch, in her official capacity as Attorney General of the United States, and James B. Comey, in his official capacity as Director of the Federal Bureau of Investigation.

Defendants-Appellees.

* The Honorable Vernon S. Broderick, of the United States District Court for the Southern District of New York, sitting by designation.



On May 7, 2015, this Court held that § 215 of the PATRIOT Act, see USA PATRIOT ACT of 2001, Pub. L. No. 107-56, 115 Stat. 272, 287 (2001) (codified at 50 U.S.C. § 1861), did not authorize the bulk telephone metadata program challenged by plaintiffs-appellants.

Section 215, along with certain other provisions of the PATRIOT Act, expired on June 1, 2015. See PATRIOT Sunsets Extension Act of 2011, Pub. L. No. 112-14, 125 Stat. 216 (2011). On June 2, 2015, Congress passed the USA FREEDOM Act, see USA FREEDOM Act of 2015, H.R. 2048, 114th Cong. (2015) (enacted); 161 Cong. Rec. S3444 (daily ed. June 2, 2015), which the President has signed into law, see USA FREEDOM ACT of 2015, Pub. L. No. 114-23, 129 Stat. 268 (2015). The USA FREEDOM Act amends § 215 in significant ways.

In light of these developments, it is hereby ORDERED that the parties are directed to submit supplemental briefs, not to exceed twenty pages in length, regarding the effect of the USA FREEDOM Act on the above-captioned case, and in particular whether any or all of the claims asserted by the plaintiffs-appellants have been rendered moot as a result of that legislation, by July 24, 2015.

It is further ORDERED that (1) issuance of the mandate in this action is hereby STAYED pending the parties' supplemental briefing, and (2) the deadline for submission of any petitions for rehearing is hereby extended until 14 days after the stay of the mandate has been lifted, absent further order of the Court.

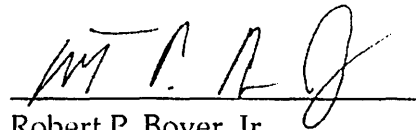
FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

CERTIFICATE OF SERVICE

I hereby certify that, on June 10, 2015, a true and correct copy of the Government's Letter dated June 10, 2015 (with enclosure) was submitted, by electronic mail, to a Litigation Security Officer, for delivery to the following counsel of record for Movants:

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