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Supremes could decide fate of NSA spying program after conflicting rulings

Contradicting an earlier ruling last week that the NSA's collection of data on most Americans was flagrantly unconstitutional, another judge has ruled this week that the agency has the right to collect data in order to prevent terrorist attacks.

U.S. District Judge William Pauley said in a written opinion that the NSA spying program "only works because it collects everything" and that NSA needs to have the information to provide a "counter-punch" to terrorist threats.

"This blunt tool only works because it collects everything," Pauley said. "The collection is broad, but the scope of counterterrorism investigations is unprecedented."

He went on to justify his decision by citing the horrific death toll that resulted from the Sept. 11, 2001 attacks saying that "as the Sept. 11 attacks demonstrate, the cost of missing such a threat can be horrific" and that they "revealed, in the starkest terms, just how dangerous and interconnected the world is. While Americans depended on technology for the conveniences of modernity, al-Qaida plotted in a seventh-century milieu to use that technology against us. It was a bold jujitsu. And it succeeded because conventional intelligence gathering could not detect diffuse filaments connecting al-Qaida."

While Pauley's statements may appear to border on an "ends justifies the means" approach, they stand in stark contrast to a decision by another U.S. District Court judge Richard Leon who issued a preliminary injunction against the NSA's collecting the exact data that Pauley ruled was acceptable.

Leon said in his ruling that the collecting the phone data of two men who had challenged the government over its actions in the program likely violated the Fourth Amendment's ban on unreasonable searches because of the overly broad nature of the data it collects on millions of American with no probable cause that they have engaged in any type of illegal behavior.

Pauley's opinion dismissed a lawsuit brought by the American Civil Liberties Union over the spying program and the organization vowed to appeal the judge's decision to the 2nd U.S. Circuit Court of Appeals.

"We're obviously very disappointed," said Brett Max Kaufman, an attorney with the ACLU's National Security Project. "This mass call tracking program constitutes a serious threat to Americans' privacy and we think Judge Pauley is wrong in concluding otherwise."

The NSA's spying on Americans was first revealed by whistleblower Edward Snowden and has stirred up an international firestorm. Following Snowden's revelations, diverse groups on both the left and right of the political aisle have banded together to condemn the NSA programs. In addition to the ACLU other groups such as the Council on American Islamic Relations and conservative groups such as Generation Opportunity and the Cato Institute.

The conflicting rulings make it all but certain that the issue will be taken up by the Supreme Court in order to avoid separate decisions in different jurisdictions of the country.