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U.S. Was Wrong to Chill Muslim Group's Assets

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(CN) - A federal anti-terrorism agency violated the civil rights of an Islamic foundation in Oregon when it froze the group's assets without a warrant, the 9th Circuit ruled Friday.

The federal appeals court in Portland also took issue with some elements of an executive order from the President George W. Bush-era that allows the Department of the Treasury to freeze the assets of suspected terrorists.

Suspecting that the Al Haramain Islamic Foundation (AHIF-Oregon) in Ashland had provided aid to al-Qaida, the Office of Foreign Assets Control marked the nonprofit Muslim advocacy group as a "specially designated global terrorist" and froze its assets in 2004 and again in 2008.

With most of its evidence cloaked by national security, the agency cited an Egyptian national's \$150,000 donation that was funneled through the Oregon group in 2000 to a sister foundation in Saudi Arabia, according to the complaint. AHIF-Oregon claimed the money went for humanitarian relief in Chechnya.

The U.S. government also said that two of Al Haramain's leaders, Saudi nationals Aqeel Al-Aqil and Soliman Al-Buthe, were suspected of supporting terrorism.

In a 2004 press release quoted in the ruling, the agency said that "other information available to the U.S. shows that funds that were donated to [AHIF-Oregon] with the intention of supporting Chechen refugees were diverted to support mujahideen, as well as Chechen leaders affiliated with the al Qaida network." (Brackets in original.)

The Al Haramain Foundation Oregon filed a federal complaint against the government in 2007, alleging that the agency had violated the Fourth Amendment by freezing its assets without a warrant, and its due-process rights by failing to give proper notice of the investigation and refusing to allow the foundation to see the evidence against it. The Multicultural Association of Southern Oregon (MCASO) joined the lawsuit to challenge portions of Executive Order 13,224, claiming it violated the First Amendment by prohibiting MCASO from working with the foundation.

A Portland federal judge ruled for the government on all points, but an appellate panel of the 9th Circuit partially reversed in a 59-page ruling published Friday.

The judges agreed that the Office of Foreign Assets Control (OFAC) had enough evidence to designate the foundation as a terrorist group, but they refused to give the government a blanket national-security pass on the warrant issue.

"We reiterate that OFAC's interest in preventing terrorism is extremely high," Judge Susan Graber wrote for a three-judge panel. "But we cannot accept OFAC's contention that its blocking orders are per se reasonable in all circumstances, solely by virtue of that vital mission. As we noted above, an exception to the warrant requirement would permit OFAC to seize assets without obtaining a warrant in some situations. But, because there is no diminished expectation of privacy and because nothing prevents OFAC from obtaining a warrant in the normal course, we reject OFAC's argument that its blocking orders are per se reasonable under the 'general reasonableness' approach."

The judges reversed the District Court's ruling against MCASO as well, finding that the group had a First Amendment right to "engage in the forms of coordinated advocacy that it seeks, such as holding a joint press conference with AHIF-Oregon."

While the executive order in question prohibits MCASO from joining the foundation in "coordinated activities," such "content-based prohibitions on MCASO's speech violate the First Amendment," the panel found. 

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