

Warrantless wiretaps ruled unconstitutional

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A federal judge's emphatic rejection Thursday of the Bush administration's warrantless wiretapping of calls between Americans and alleged foreign terrorists is far from the last word on the legality of the program, which most likely will be determined by the Supreme Court or Congress.

But the ruling by U.S. District Judge Anna Diggs Taylor of Detroit is one of a mounting series of judicial rebuffs of President Bush's claim of virtually absolute authority, as the leader of the nation's battle against terrorism, to redraw the boundaries between government power and individual rights.

"There are no hereditary kings in America and no powers not created by the Constitution," Taylor said in finding that the administration's wiretapping violates an array of constitutional rights and a 1978 law requiring court warrants for electronic surveillance related to terrorism or espionage. It was the first ruling in the nation on the legality of the program.

She granted the American Civil Liberties Union's request for a nationwide injunction halting the surveillance, which Bush secretly authorized shortly after the Sept. 11 terrorist attacks. The president acknowledged the program's existence after it was disclosed by the New York Times in December.

Bush said he had ordered the National Security Agency to monitor phone calls and e-mails between Americans and suspected members and supporters of al Qaeda overseas. The president claimed authority under his constitutional powers as commander-in-chief and under a post-Sept. 11 congressional resolution authorizing the use of military force in Afghanistan -- an assertion that Taylor said was unfounded.

The wiretapping program will remain in operation, at least temporarily. The Justice Department said the ACLU agreed Thursday to a stay until Sept. 7, when Taylor will hear the department's request to suspend her ruling while it is being appealed.

The ruling comes on the heels of a July 20 decision by Chief U.S. District Judge Vaughn Walker in San Francisco allowing a privacy-rights group to sue AT&T, on behalf of its customers, for allegedly collaborating in the surveillance program by allowing the government to monitor millions of phone calls and e-mails.

Last week, a federal court panel transferred dozens of similar lawsuits against telecommunications companies nationwide to Walker's court, rejecting requests by the companies and the government to send the cases to a judge in Washington, D.C.

And in June, the Supreme Court rejected another broad assertion of presidential powers, ruling that military tribunals established to try foreign captives in Guantanamo Bay, Cuba, must abide by the human rights guarantees of the Geneva Conventions.

Taylor's ruling was "another nail in the coffin in the Bush administration's legal strategy in the war on terror," said Anthony Romero, the ACLU's executive director. "It is a flat rejection of secret government ... a flat rejection of an all-powerful presidency."

Sen. Dianne Feinstein, D-Calif., said the ruling "upholds the basic principle that even the president is not outside the law."

The administration said it would appeal the ruling to the Sixth U.S. Circuit Court of Appeals in Cincinnati.

"We couldn't disagree more with this ruling," Bush's press secretary, Tony Snow, said in a statement. "The Terrorist Surveillance Program is firmly grounded in law and regularly reviewed to make sure steps are taken to protect civil liberties," he said, apparently referring to internal administration reviews. "The Terrorist Surveillance Program has proven to be one of our most critical and effective tools in the war against terrorism."