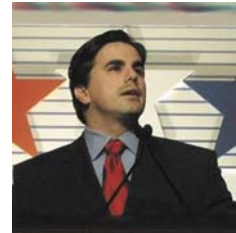




February 22, 2008

From the Desk of Judicial Watch President Tom Fitton:

JW Files Court Brief in Support of Hazleton, PA, in Illegal Immigration Lawsuit



You may recall that in July of 2007, a federal judge ruled against two City of Hazleton, PA, ordinances dealing with the employment and harboring of illegal aliens. But that was not the end of the story. The lawsuit is now on appeal. And, on February 14, 2008, we filed an *amicus curiae* brief with the United States Court of Appeals for the 3rd Circuit in support of Hazleton. (By the way, want to take a guess at which organization is leading the legal campaign against Hazleton? You guessed it. The American Civil Liberties Union [ACLU].)

Here's our argument in a nutshell: "...The regulation of the landlord-tenant and employment relationships – are well within the traditional police and licensing powers of the City. Because the ordinances do not seek specifically to regulate immigration, they are not preempted by federal immigration law," Judicial Watch argued in its brief. "In fact, the ordinances work in harmony with federal law and are entirely consistent with purposes set forth by Congress in enacting legislation concerning immigration. They also fit comfortably within well-established case law authorizing local government actions." (You can [read the rest here.](#))

By way of review, Hazleton's Ordinance 2006-13, otherwise known as the Rental Registration Ordinance, requires a person who intends to rent a "dwelling unit" in the City of Hazleton to submit an application and obtain an occupancy permit. (To obtain such a permit an applicant must provide "proper identification showing proof of legal citizenship and/or residency.") Ordinance 2006-18, otherwise known as the Illegal Immigration Relief Act, prohibits any business entity in the City of Hazleton that holds a business permit from employing an illegal alien. This ordinance also prohibits any person or business entity owning a dwelling unit in Hazleton from harboring an illegal alien in that unit.

The Supreme Court has a handy three-part test to determine whether or not state immigration laws violate the Supremacy Clause, which gives precedence to federal laws over state laws. JW maintains these ordinances are completely consistent with the Constitution.

First, the Hazleton statutes do not attempt to regulate immigration, which is the exclusive domain of the federal government, but instead rely upon the immigration standards established by federal law. Second, the Hazleton statutes regulate areas (tenant and employment relationships) traditionally governed by state governments, not the federal government. And finally, the Hazleton statutes do not burden or conflict with the "full purposes and objectives of Congress," but rather seek to facilitate the objectives established by Congress with the enactment of federal immigration laws.

(Other federal courts in Arizona and Missouri recently upheld local statutes substantially similar to Hazleton's statutes.)

The clear intent of federal immigration law is to prevent illegal aliens from coming here and staying here. The Hazleton statutes are completely consistent with the objectives of Congress. Let's hope the appellate court agrees with JW and does the right thing by overturning the lower court's flawed decision.

(I again encourage you to read our lawyers' [full brief](#), as it not only provides an excellent overview of important aspects of immigration law, but presents strong legal -- and common sense -- arguments for the conservative principle of judicial restraint.)

Supreme Court Rejects ACLU Wiretapping Lawsuit

On February 19th, the Supreme Court dealt a blow to the American Civil Liberties Union (ACLU) and its legal campaign against the National Security Agency's warrantless wiretapping program. According to the [Associated Press](#): "The justices, without comment, turned down an appeal from the American Civil Liberties Union to let it pursue a lawsuit against the program that began shortly after the Sept. 11 terror attacks."

Regular readers of the Weekly Update will likely recall that Judicial Watch has been intimately involved with this lawsuit from the outset. First, Judicial Watch sparked a [media firestorm](#) when it uncovered a potential conflict of interest on the part of the presiding district judge, Anna Diggs Taylor. After carefully inspecting Judge Diggs Taylor's financial disclosure statements, Judicial Watch investigators discovered the judge serves as a Secretary and Trustee for a foundation that donated funds to the ACLU of Michigan, a plaintiff in the case.

According to her 2003 and 2004 [financial disclosure statements](#), Judge Diggs Taylor served as Secretary and Trustee for the Community Foundation for Southeastern Michigan (CFSEM). She was reelected to this position in June 2005. The official CFSEM website states that the foundation made a "recent grant" of \$45,000 over two years to the ACLU of Michigan.

After Judge Diggs Taylor ruled in favor of the ACLU, Judicial Watch then filed an [amicus curiae](#) brief with appellate court in support of the surveillance program. According to Judicial Watch's court filing, Judge Diggs Taylor's ruling "overstepped the limits of judicial authority."

"[The District Court] attempted to decide...very important constitutional questions without the benefit of anything approaching a well-developed factual record, conflated the plaintiffs' alleged First and Fourth Amendment injuries, and disregarded well-established precedent and ordinary rules of procedure," Judicial Watch argued in its brief filed on October 24, 2007. "The result was not only the hasty and injudicious entry of a permanent injunction against an ongoing foreign intelligence gathering operation during a time of war, but also the patently flawed entry of summary judgment against the government. The District Court's ruling must, respectfully, be vacated."

Given that none of the plaintiffs could demonstrate that any of their conversations were actually intercepted by the government, their injuries were speculative and could not be considered by the court.

Thankfully, the appellate court agreed with Judicial Watch's legal arguments (which the Bush administration had failed to push) and overturned the lower court ruling, which prompted the ACLU's unsuccessful appeal to the Supreme Court.

A fight continues in Congress on how to regulate the president's power to gather intelligence from overseas sources through a version of this program. It is good to see that the courts, thus far, have restrained themselves from interfering with this democratic process.

McCain Comes Under Media Fire

You knew the media's love affair with the McCain candidacy wouldn't last forever. Now that he is the presumptive Republican nominee for president, McCain not only finds himself squarely in the crosshairs of his Democratic opponent(s), but also the so-called "mainstream press." Here is the latest from [The New York Times](#).

"Early in Senator John McCain's first run for the White House eight years ago, waves of anxiety swept through his small circle of advisers. A female lobbyist had been turning up with him at fund-raisers, visiting his offices and accompanying him on a client's corporate jet. Convinced the relationship had become romantic, some of his top advisers intervened to protect the candidate from himself...When news organizations reported that Mr. McCain had written letters to government regulators on behalf of the lobbyist's client, the former campaign associates said, some aides feared for a time that attention would fall on her involvement."

This is an odd "news" story for a supposed reputable newspaper. It traffics in rumor and innuendo in a way that some tabloids might admire. It seems to me few fair-minded individuals could come to any conclusions about these allegations after a review of the Times' flawed reporting. Evidently, there was some hesitancy at the Times in running the story. It now seems obvious why.

A more substantive story about McCain's judgment ran a few weeks ago in [The Washington Post](#). The Post reported that "A top political adviser in Sen. John McCain's presidential campaign helped arrange an introduction in 2006 between McCain and a Russian billionaire whose suspected links to anti-democratic and organized-crime figures are so controversial that the U.S. government revoked his visa."

And then there's the "Keating Five" scandal, where in the 1980's McCain was alleged to have used his influence in the Senate to block federal regulators from shutting down the corrupt business of a friend and campaign contributor, Charles Keating, Jr. Over the years, McCain had received \$112,000 in campaign contributions from Keating, who also approached four other Senators (hence the Keating "five"). None of the Senators were ever convicted of a crime, but their reputations were severely damaged by the scandal.

McCain weathered the "Keating Five" storm (largely because he supposedly pulled back from helping Keating when he got a whiff that Keating may have been up to no good) and has since crafted the public image of a straight-talking maverick politician beyond reproach.

In his 2002 memoir, *Worth Fighting For*, McCain wrote of the Keating experience: "I would very much like to think that I have never been a man whose favor can be bought. From my earliest youth, I would have considered such a reputation to be the most shameful ignominy imaginable. Yet that is exactly how millions of Americans viewed me for a time, a time that I will forever consider one of the worst experiences of my life."

Now that he's under the microscope of the Democrats and their allies in the press, one of the "worst experiences" of John McCain's life could unfold in the next nine months, especially if Hillary Clinton wins the nomination and puts her smear machine to work.

McCain is not above scrutiny, and, as the likely Republican nominee for the presidency, deserves more. (I'd certainly like more information about his contacts with the Russian billionaire.)

Judicial Watch, for its part, will continue to investigate any serious ethical allegations relating to any of the leading presidential candidates. And I will be sure to keep you posted on what we find.

Washington Post Sides with Secrecy in Hillary White House Papers Scandal

In a recent [editorial](#), The Washington Post fiercely defended the National Archives' withholding of Hillary Clinton's White House papers at least until after the November elections. Am I surprised? Well, in spite of the fact that the Post is a reliably left-of-center publication, I have to say yes. What credible news agency would come down on the side of government secrecy? Moreover, I recall the coverage Judicial Watch received from the Post in our lawsuit against Vice President Cheney's Energy Task Force: Nothing but kudos then.

At any rate, the Post finally published my [response](#) this week (by the way, you wouldn't believe the negotiations and editing I had to go through with the paper before this short letter was published):

The Feb. 8 editorial "Clinton Records Watch" sought to explain why Sen. Hillary Rodham Clinton's White House papers could not be released by the National Archives "at the snap of a finger." It turns out that rather than snapping its fingers, the Archives has sat on its hands.

After seven years, the Archives has released few significant records, instead responding to requests for documents about "Unidentified Flying Objects," among other frivolous topics.

Almost two years after we requested access to the records of the health-care task force, the Archives has not released any documents and refuses to offer an estimate as to when it might begin to release these records. We may not see any such records for years if the Archives gets its way in our pending litigation. Ms. Clinton's office schedules would not now be on the verge of release but for one of our other lawsuits.

The public's "right to know" is poorly served by the unlawful failure to release these records in a timely way. We do not seek special treatment; we ask that the Archives comply with the law.

Shame on The Post for endorsing government inaction that has the effect of helping Mrs. Clinton on the eve of primary contests.

Until next week...

A handwritten signature in black ink, appearing to read "Tom Fitton". The signature is written in a cursive, flowing style.

Tom Fitton
President

Judicial Watch is a non-partisan, educational foundation organized under Section 501(c)(3) of the Internal Revenue code. Judicial Watch is dedicated to fighting government and judicial corruption and promoting a return to ethics and morality in our nation's public life. To make a tax-deductible contribution in support of our efforts, [click here](#).