

Federal Bureau of Investigation v. Fazaga

Legislation is a driving factor in court cases. Cases use acts and amendments to prove their argument constitutionally. The Federal Bureau of Investigation v. Fazaga was no different than its predecessors. Fazaga, the Plaintiffs, argued their case over four legislations.

The main legislation questioned was the Foreign Intelligence Surveillance Act of 1978, specifically Section 1806(f). This legislation was a part of the final decision in this case.

To understand the use of legislation in this case, it is important to know how it came to be.

The Background

Operation Flex was a program launched in 2006 and ended in 2007. This program was started by the Federal Bureau of Investigation (FBI). It was used to “collect information—purportedly for counterintelligence purposes (Brennan Center for Justice).”

For fourteen months, an FBI agent went undercover as a Muslim and used equipment to spy on Muslims during services. He found personal intel on people in that mosque. The ACLU reports he even “recorded conversations.” In addition to the information found undercover, the FBI had also placed listening devices in many mosques in Southern California.

Yasser AbdelRahim, Ali Uddin Malik, and Sheikh Yassir Fazaga were practicing Muslims and active members of their Muslim community in Southern California (Oyez). Because of their location and religion, they fell victim to this undercover operation. According to the Constitution, Americans have a right to freedom of religion, and they felt like that had been violated.

The Case

Fazaga, an imam sued, the FBI for this invasion. Fazaga did consent to the FBI into his mosque, unaware of the spying that would ensue. He sued on the claim that he and his fellow community members were being discriminated against by an informant to get intel on the Muslim community of Southern California, simply for their religious beliefs. He said that this investigation went against four legislations: “the First Amendment, the Fifth Amendment, the Religious Freedom Restoration Act of 1993, and the Privacy Act of 1974, and the Foreign Surveillance Act (FISA) of 1978” (Brennan Center for Justice).

This case was battled out in the lower courts of Southern California.

America’s attorney general disregarded any kind of discrimination towards the Plaintiffs and their peers. He stated that states had privileges deemed private (Brennan Center for Justice); as opposed to this view, the U.S. Court of Appeals for the Ninth Circuit believed that the states should have decided whether what was captured was lawful or not in accordance with the FISA.

The attorney general led to this assertion through a previous case from 1953, U.S. v Reynolds. This case allows America’s government to access any information they like if they feel that someone or something poses a threat to the country.

The FBI then argued that the continuity of this case would be detrimental to the country. In 2012, because of their argument, a majority of the case was ultimately dissolved.

The Brennan Center writes that the Ninth Court reacted by claiming “FISA displaces state secrets privilege in governing judicial review of electronic surveillance.”

Eventually, after its time in the lower courts, the Supreme Court took on the case.

Conclusion

On November 8, 2021, SCOTUS heard the case. Ultimately, in a unanimous decision, the court ruled in favor of the FBI.

The majority opinion was given by Justice Samuel Alito. He used Section 1806(f) of FISA to assert the section has no influence on state secret privileges (Oyez). The Supreme Court found that Section 1806(f) of FISA fails to mention anything about state secret privileges, it merely questions it.

This ruling permitted the government “to withhold surveillance evidence from courts altogether (ACLU).”

After this case, some Americans were worried about the future of religious freedom and the government spying on Americans without their consent. Patrick Toomey of the ACLU described the ruling as dangerous and there is “a critical safeguard out of reach (ACLU).”

In a post-9/11 world, Muslims in America were victims of Islamophobia and were constantly being watched. The FBI v. Fazaga ruling is serious, when it comes to the basic freedoms and privacy rights of Americans, no matter their creed.

While Fazaga and his community were being discriminated against and unlawfully spied on for exercising their freedom of religion, the main legislation they used was reviewed which ultimately led to their loss. This case is important in understanding how important laws set in place influence decisions in SCOTUS, and how important the wording law is.

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