

HEDGES NDAA INDEFINITE DETENTION DECISION STAYED BY 2ND CIRCUIT

As much as I, and most who care about Constitutional protections and Article III courts still having a function in balance of power determinations, the recent 112 page ruling by Judge Katherine Forrest in SDNY (see here and, more importantly, here) had fundamental issues that made review certain, and reversal all but so.

The first step was to seek a stay in the SDNY trial court, which Judge Forrest predictably refused; but then the matter would go to the Second Circuit, and the stay application was formally filed today.

Well, that didn't take long. From Josh Gerstein at Politico, just filed:

A single federal appeals court judge put a temporary hold Monday night on a district court judge's ruling blocking enforcement of indefinite detention provisions in a defense bill passed by Congress and signed into law last year by President Barack Obama.

U.S. Court of Appeals for the 2nd Circuit Judge Raymond Lohier issued a one-page order staying the district court judge's injunction until a three-judge panel of the court can take up the issue on September 28.

Lohier offered no explanation or rationale for the temporary stay.

Here is the actual order both granting the temporary stay and scheduling the September 28 motions panel consideration.

This is effectively an administrative stay until the full three judge motions panel can consider the matter properly on September 28th. But I would be shocked if the full panel does anything but continue the stay for the pendency of the appeal.