SCOTUS SAYS “NO THANKS” TO ACLU SUIT–WILL IT CHANGE THE FISA DEBATE?

SCOTUS just declined to review the 6th Circuit’s dismissal of the ACLU warrantless wiretapping suit.

> The Supreme Court rejected a challenge Tuesday to the Bush administration’s domestic spying program.
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> The justices’ decision, issued without comment, is the latest setback to legal efforts to force disclosure of details of the warrantless wiretapping that began after the Sept. 11 attacks.
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> The American Civil Liberties Union wanted the court to allow a lawsuit by the group and individuals over the wiretapping program. The 6th U.S. Circuit Court of Appeals dismissed the suit, saying the plaintiffs could not prove their communications had been monitored.

McJoan and Christy point to the key issue here—standing. As Glenn points out, judges have ruled that this warrantless wiretapping program was illegal, yet also ruled (at least the 6th Circuit) that no one had standing to do anything about it.

It’s not clear whether the 9th Circuit will rule different on the majority of the 40 or so cases out there. But for now, this decision sure seems to put the immunity debate in a different light. After all, if judges won’t let any of these suits advance because no one can prove standing, then why bother with the constitutionally suspect step of having Congress intervene in the Courts?

The rub is the Al-Haramain lawsuit, where plaintiffs once had documented proof that the government had intercepted calls between one of the Charity’s members and its lawyers in the US. Only the government’s Kafkaesque games, which demand lawyers for the charity treat their own memory as classified, prevents the charity from proving standing.

Is Congress going to bigfoot into the privileges of another branch of government because one Islamic charity once had proof of the Bush Administration’s law-breaking? Or is it the threat of a differing opinion in the 9th Circuit the basis of the single-minded panic about immunity?