

VAUGHN WALKER DISMISSES JEWEL

In the abundant free time left over from the Prop 8 trial yesterday, Vaughn Walker dismissed the Jewel case, one of the last suits against the government for conducting widespread collection of telecomm data. EFF says they will appeal this decision.

Walker's ruling basically judges that the plaintiffs in this case lack sufficient standing to sue the government.

Upon careful consideration of the allegations of both complaints, the court has concluded that neither the Jewel plaintiffs nor the Shubert plaintiffs have alleged facts sufficient to establish their standing to proceed with their lawsuit against the President, the NSA and the other high-level government officials named as defendants in these lawsuits.

Walker seems to say that this surveillance is appropriate for legislation, not the courts.

As the court noted in *Hepting*, “[w]hether styled as a constitutional or prudential limit on standing, the [Supreme] Court has sometimes determined that where large numbers of Americans suffer alike, the political process, rather than the judicial process, may provide the more appropriate remedy for a widely shared grievance.” *Id.* at 1000, quoting *FEC v Akins*, 524 US 11, 23. This special species of standing problem is directly relevant here.

Stated more generally, “[s]tanding will be denied to one alleging only a generalized interest, shared by a large segment of the public. * * * The courts do not want to be viewed as a panacea of

all of society's ills, a task too large and often inappropriate for them to handle. If an injury is far-reaching, it is likely that a better solution would come from a political forum." Charles H Koch, Jr, 33 Federal Practice and Procedure: Judicial Review of Administrative Action § 8413 at 452.

Walker specifically declined to rule on a bunch of issues central to other cases in Northern California.

Because the court GRANTS the United States' motions to dismiss based on the specific standing grounds stated herein, the court declines to rule on the sovereign immunity, SSP and other issues raised in the United States' motions.

I actually thought that Walker, having viewed the documents in al-Haramain, might have seen fit to apply the generalized descriptions in those filings to this case. I guess not.

All of which places all the more importance on the al-Haramain decision, which itself probably relies on the 9th Circuit's decision in Jeppesen.