

## 11-1025 CLAPPER V. AMNESTY INTERNATIONAL USA

DECISION BELOW: 638 F. 3d 118

LOWER COURT CASE NUMBER: 09-4112-cv

QUESTION PRESENTED:

Section 702 of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. 1881a (Supp. II 2008)-referred to here as Section 1881a - allows the Attorney General and Director of National Intelligence to authorize jointly the "targeting of [non-United States] persons reasonably believed to be located outside the United States" to acquire "foreign intelligence information," normally with the Foreign Intelligence Surveillance Court's prior approval of targeting and other procedures. 50 U.S.C. 1881a(a), (b), (g)(2) and (i)(3); cf. 50 U.S.C. 1881a(c) (2). Respondents are United States persons who may not be targeted for surveillance under Section 1881a. Respondents filed this action on the day that Section 1881a was enacted, seeking both a declaration that Section 1881a is unconstitutional and an injunction permanently enjoining any foreign-intelligence surveillance from being conducted under Section 1881a. The question presented is:

Whether respondents lack Article III standing to seek prospective relief because they proffered no evidence that the United States would imminently acquire their international communications using Section 1881a-authorized surveillance and did not show that an injunction prohibiting Section 1881a-authorized surveillance would likely redress their purported injuries.

JUSTICE KAGAN TOOK NO PART.

CERT. GRANTED 5/21/2012