Supremacist Judges Attack Our Military

by Phyllis Schlafly February 20, 2008

Printer Friendly version

Google Ads are provided by Google and are not selected or endorsed by Eagle Forum

Two separate federal courts, one in San Francisco and the other in Los Angeles, just ordered the United States Navy to limit its use of sonar, the underwater radar essential for tracking enemy submarines and detecting the ocean floor. These rulings tie the hands of our Navy and are the latest outrage committed by judicial supremacists.

The lawsuits were brought by environmental groups on behalf of whales and other sea creatures, using the claim that their ears and brains might be damaged by the sonar. The court rulings allow environmentalism to trump what the Navy needs to do to protect our national interest.

These February rulings followed an anti-military ruling last November by the Ninth Circuit, which invited injunctions against the Navy to restrict its use of sonar. In NRDC v. Winter, the Ninth Circuit held that an "injunction would be appropriate" against the Navy to restrict its use of sonar.

The Navy says it already minimizes risks to marine life and has used sonar for decades without seeing any injuries to whales. The Navy has even said it will shut off the sonar when whales are spotted, but the judge said that's not good enough because visual monitoring might miss some dolphins and other small animals.

So, chalk up another victory for enemies of our armed forces, internal and external. It seems that the anti-military leftists have picked up judicial activists as their allies.

Why should our Navy have to grovel to federal judges for permission to defend U.S. national security? Most of our Navy's activities are not even in the United States, and judges should not have the power to interfere with the Navy's protection of our national interests.

Few persons on our modern judiciary have ever served in the military. Only one Supreme Court Justice is a veteran, Justice John Paul Stevens, and most of our appellate judges have no military service in their backgrounds.

Lawsuits are a poor way to debate and decide which military strategies work best for our nation. We do not want our enemies to have access to our military strategies and technology in open court, and the adversarial process of litigation is not appropriate to deciding what is best for our soldiers and sailors and the country they protect.

Perhaps liberals hope that one day they will be able to sue to obtain an order by a judge telling the President himself what he can no longer do in combating foreign threats. What if a federal judge had ordered President Truman not to drop the atom bomb on Japan because of its environmental impact?

Judges in black robes should not be telling our generals and admirals what they cannot do, and federal courts should not be interfering with the Navy's duty to patrol the oceans. The Constitution did not make the federal judiciary our Commander in Chief.

Environmentalists have no compunction about filing lawsuits to protect animals at the expense of national security. For years, their litigation prevented a fence from being built on our border at San Diego.

The REAL ID Act, passed in May 2005, withdrew jurisdiction from federal courts over challenges to a fence built on our southern border. This law enabled the San Diego fence to be built without further delay and is now preventing another lawsuit from stopping the building of a fence along the Arizona border.

Unaccountable federal judges should not be giving orders to the United States Navy as it tries to defend our freedoms. Just as power was taken away from federal courts over environmental challenges to the building of a border fence, power should likewise be taken away from federal courts so that they do not interfere with national security.

Congress (including many Democrats) has already stripped jurisdiction from federal courts over the detaining of enemy combatants in Guantanamo Bay. When the Supreme Court found a way to bypass that law, Congress (including many Democrats) passed a new law to reinstate the withdrawal of jurisdiction more broadly, and that law is now before the Supreme Court.

When the anti-military MoveOn.org published its insulting attack against General David Petraeus last fall in the New York Times, the Senate voted 72-25 to condemn that ad. But talk is cheap, and Senate resolutions do not have the force of law.

It's time for Congress to assume responsibility to protect our national security by stripping the federal courts from jurisdiction over the U.S. Navy.