



AMERICA'S FUTURE FILES AMICUS BRIEF IN THE UNITED STATES SUPREME COURT IN SUPPORT OF PETITIONER'S CONSTITUTIONAL CHALLENGES TO THE WARRANTLESS SURVEILLANCE OF AMERICANS BY THE NATIONAL SECURITY AGENCY

On Friday, Feb. 18, 2022, America's Future joined ten (10) other nonprofit organizations and one (1) educational organization to file an [Amicus brief](#) in the Supreme Court of the United States (SCOTUS) at Docket No. 21-1017, in support of the Petitioner Carolyn Jewel, et al.'s Petition to the SCOTUS for a Writ of Certiorari of *Jewel v NSA*, 856 Fed. Appx. 640 (9th Cir. 2021).

For the sake of clarity and for the purpose of creating a framework, it is worthwhile to take a few minutes to deconstruct the preceding paragraph into simpler terms.

1. What is an *Amicus* brief?

First, a “brief” is a legal document submitted to a Court in connection with a legal case that particular Court is presiding over or, in other words, has accepted jurisdiction to resolve the dispute. Most briefs are submitted by litigants interested in the outcome of a case (i.e., parties to a case) in hopes of persuading the Court to agree with their point of view. Generally, briefs address specific issues raised by either party at various times during the lifetime of a court case. Briefs lay out facts considered relevant to the issue(s) that a party raises; they provide the Court with law that is “on point”; and most importantly briefs include legal arguments applying the pertinent law to the specific facts to draw a conclusion that favors a certain outcome.

Second, an *Amicus* brief is a special type of brief that are submitted to Appellate Courts, upon permission by the Court, by non-parties. *Amicus* is short for *Amicus Curiae*. *Amicus Curiae* is Latin for “friend of the Court”. In other words, this type of brief is filed for the purpose of offering the Court information, insight, and rationale in connection with an appeal that is presently in front of the Court. Generally, *Amicus* briefs are not viewpoint-neutral, but rather they are filed in support of one party’s position.

2. What is a Petition for a Writ of Certiorari?

Simply put, a Petition for Writ of Certiorari is request that an Appellate Court review a lower Court’s decision. This type of Petition is filed by litigants, identified as “Petitioner”, who are dissatisfied (i.e., aggrieved) with an outcome and seek appellate review. In legalese, if an Appellate Court grants a litigant’s request for appellate review of a lower Court’s decision, it means the Appellate Court “issues a writ”.

Now that a few points of reference are established, it’s time to tackle the central issues of *Jewel, et al. v. NSA*, Dkt. No. 21-1017; issues grounded in the First and Fourth Amendments to the U.S. Constitution.

Unfortunately, and considered patently unfair to a reasonable person, this case has bounced up and down within the Courts for 14 years. The case was first filed in 2008. Considering this case addresses serious, continuous, and confirmed warrantless surveillance of Americans, *en masse*, by the U.S. government, it is unacceptable this case is not adjudicated. Not only is this case just getting to the SCOTUS, but the issues SCOTUS will decide, *if it grants Petitioner's request and issues a writ*, relates to whether or not the Petitioner has "standing" to litigate. This is a threshold issue in every lawsuit filed; it is an issue that is determined by a Court at the outset of a case and most of the time it's a non-issue. To have standing necessary to bring a lawsuit, a plaintiff "must have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." It is baffling that after 14 years of litigation, the Courts still have not put this issue to rest.

At its heart, *Jewel* is about civil freedoms and God-given rights to be secure that private matters and personal information stay that way, at each individual's option, unless a fully-informed court with jurisdiction determines otherwise, on a case-by-case basis. *Jewel* concerns extraordinary constitutional violations by the U.S. government against its own citizens. The shocking acts by the NSA, *et al.* include over two (2) decades of covertly and unlawfully intercepting, copying, collecting, searching, and retaining detailed records of U.S. citizens' internet and cell phone usage and communications without any authority and under the color of law. The secret unlawful surveillance schemes created and carried out by bad actors within the U.S. government illustrates how quick abuse of power can infect large government agencies. This type of abuse of power is an affront to Constitutional protections guaranteed to American citizen and is neither tolerable nor tenable.

To some, even more repugnant and objectionable is the fact that the Ninth Circuit Court of Appeals (Ninth Circuit) ruled that the Plaintiff (i.e., Petitioner) failed to meet its burden to demonstrate the initial element of standing, that is a particularized injury — "that the government has interfered with *their* communications and communications records." In other words, evidence demonstrating that private communications of *all* Americans have been interfered with by the government is not particular enough for *any one* (or more) American(s) to seek justice.

It gets even more bizarre. The three-page markedly flimsy Ninth Circuit opinion leading up to Petitioner's current filing with the SCOTUS ruled, as follows, (1) the lower Court's exclusion of publicly-available evidence to the detriment of the Plaintiff's ability to prove standing was proper; and (2) the lower Court's ruling denying Plaintiff access to classified evidence also detrimental to the Plaintiff's ability to prove standing was ignored completely. The Ninth Circuit foreclosed Plaintiff's ability to show standing and then ruled Plaintiff failed to demonstrate standing and all this following 14 years of litigation. It appears our judicial system may not be as pure and unpolluted as we think. The next event in this case will occur by or before March 21, 2022. By this date, the government must file its response to the Petition for Writ of Certiorari. Stay tuned.