

## Federal Judge: People On Government No-Fly List Must Have Due Process

By Administrator

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PORTLAND, Ore. (AP) — When it comes to its no-fly list, the U.S. government has a choice to make. More than a dozen Muslims sued after learning they were likely on the list — something the government still won't confirm — and they found their only recourse was to fill out an online appeal form. Then on Tuesday, a federal judge in Oregon ruled that the Department of Homeland Security must give people a better avenue to pursue a claim that they were wrongly put on the list. Now, the government can seek some way around U.S. District Judge Anna Brown's order. Or, they can do what she asked.

But Brown didn't want to dictate the rules. In fact, federal prosecutors specifically told her in court, "We urge you not to take over the policymaking."

Instead, Brown set out a handful of guidelines that were issued by the 9th U.S. Circuit Court of Appeals in an unrelated case.

She said the government must tell people what unclassified information was used to put them on the list. And if the information's classified, at least tell them the nature and extent of it.

She said it shouldn't leave people without an option to challenge their status or make blanket rulings that ignore the specifics of people's lives.

"The (challenge) process falls far short of satisfying the requirements of due process," Brown wrote in her ruling Tuesday.

U.S. Justice Department spokeswoman Dena Iverson said government attorneys were reviewing the decision.

"This should serve as a wake-up call to the government," said American Civil

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Liberties Union attorney Hina Shamsi. "This decision also benefits other people wrongly stuck on the no-fly list because it affords them (an opportunity to challenge) a Kafkaesque bureaucracy."

Thirteen people — including four military veterans — challenged their placement on the list in 2010.

Initially, Brown said she couldn't rule on the case. In 2012, the 9th Circuit disagreed and sent the case back to her. Brown ruled in August that the 13 people challenging their presence on the list had a constitutional right to travel and, on Tuesday, found the government violated that right.

"For many," Brown wrote in Tuesday's decision, "international travel is a necessary aspect of liberties sacred to members of a free society."

The judge said placement on the no-fly list turns routine travel into an "odyssey," and some of those on the list have been subjected to detention and interrogation by foreign authorities.

The no-fly list, a well-protected government secret, decides who is barred from flying at U.S. airports, and it's shared with ship captains and 22 other countries. The FBI has said the list requires secrecy to protect sensitive investigations and to avoid giving terrorists clues for avoiding detection.

The no-fly list contains thousands of names and has been one of the government's most public counterterrorism tools since 9/11. It also has been one of the most condemned, with critics saying some innocent travelers have been mistaken for terrorism suspects.

The plaintiffs argued that being on the list harms their reputations. Several who filed suit said they have been surrounded at airport security areas, detained and interrogated.

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Brown expressed skepticism at the government's arguments in several court hearings in 2013 and earlier this year.

The process "does not provide a meaningful mechanism for travelers who have been denied boarding to correct erroneous information in the government's terrorism databases," Brown ruled.

In January, a California woman successfully challenged her placement on the list, but the ruling did not address the broader constitutional implications.