

Supreme Court Declines Review of NSA Phone Spying

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The Supreme Court on Monday opted to not take up the constitutionality of the National Security Agency's surveillance program that collects bulk telephone data of millions of Americans, a decision that arrives as the other two branches of government are moving forward with reforms to the controversial practice.

The [denial](#) leaves in place a lower-court ruling late last year that described the NSA's collection of phone "metadata"—such as call times and phone numbers but not the content of conversations—as "almost Orwellian" and a likely breach of the Fourth Amendment. Other federal judges have [deemed](#) the program legal.

Lawyer and conservative activist Larry Klayman had chosen to take his case directly to the Supreme Court after District Judge Richard Leon's high-profile December decision, an unusual move that bypassed the Appeals Court, on grounds the case was of immediate, pressing concern to the public.

But the Supreme Court rejected Klayman's request Monday by failing to grant the case certiorari, a process that requires four of the nine justices to agree a petition merits the court's full review.

The Court's decision to not immediately go ahead with a review of the NSA's controversial surveillance program exposed by Edward Snowden last year means that any changes to it will—for the time being—go through Congress and President Obama, who has already announced a proposal that would require telephone companies, rather than the government, to retain the vast database of phone records. To access that data, the NSA would need to first obtain an order from the Foreign Intelligence Surveillance Court, although the agency could bypass the court in emergency situations.

Obama has said the program [will continue](#) in its current state until Congress passes legislation that closely resembles his proposal. A bill introduced last month by House Intelligence Committee Chairman Mike Rogers and Rep. Dutch Ruppersberger, the panel's top Democrat, echoes Obama's plan, but would allow the NSA to force companies to turn over particular records that would be go through court review after the fact.

But even as lawmakers and the president have weighed surveillance reforms, some have urged the judicial branch to help resolve the issue.

"My hope is that the Supreme Court will take this case," Senate Intelligence Committee Chairwoman Dianne Feinstein, a vocal defender of the intelligence community, said following Leon's high-profile "Orwellian" ruling last year.

The Supreme Court can still choose to consider cases involving the NSA's surveillance activities, but Monday's decision reaffirms expectations that the justices would rather allow the issue to percolate within the circuit courts first.