

Lawyer in landmark ruling says government went too far

Washington, D.C.'s, Lynne Bernabei will speak at 10 this morning on KSKQ radio

By [John Darling](#)

for the Mail Tribune

October 08, 2011 2:00 AM

A lawyer for the Multicultural Association of Southern Oregon said the group's recent court victory against a federal anti-terrorist law is a milestone because the court found it unconstitutional to prohibit assistance to a supposedly terrorist organization if such action would normally not be criminal.

Lynne Bernabei of Washington, D.C., said the precedent-setting decision, issued Sept. 23, barred "sweeping prohibitions" against people who aid the al Haramain Islamic Foundation, an Ashland organization that had been declared a terrorist group by the government.

Bernabei, who did the case mostly pro bono, appeared this week on a KSKQ radio interview. She said such long legal steps are necessary because "the government is very powerful, and when they go after you, they can destroy you."

She added that the power of local groups, such as the Multicultural Association, is vital, and "if you're going to turn this country around, it's people on the local level who are going to do it."

She speaks again at 10 this morning on Ken Bales' "Crossfire" show on KSKQ 94.9 FM. The station is a project of the Multicultural Association of Southern Oregon.

The case arose after the Multicultural Association of Southern Oregon was banned from speaking in favor of Ashland activist Pete Seda's Islamic charity after it was designated a supporter of terrorism.

The group wanted to hold news conferences and issue news releases in support of the chapter and Seda and challenged the law as part of the same suit seeking to lift Al-Haramain's terrorist label and free its frozen assets.

The Multicultural Association sued the Department of Treasury's Office of Foreign Asset Control in 2007 because the terrorist designation made it illegal to do any business or aid the chapter under federal statutes.

On Sept. 23, the 9th U.S. Circuit Court of Appeals deemed the association's First Amendment rights were violated because speaking in support of a federally listed terrorist organization is not the same as offering material support.

That amendment states, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The federal government, she said, used powers contained in the International Emergency Economic Powers Act of 1977, but it applied them vaguely, leaving the Multicultural Association in the dark

about whether they would be breaking the law by doing news conferences, interfaith services or classes involving al Haramain — or seeking redress of grievances for treatment of al Haramain.

"The court said the statute was unconstitutional and too broad," said Bernabei. "If you're going to criminalize speech, you have to let people know what is being criminalized."

The Multicultural Association's past president, Jim Bauermeister of Ashland, said an executive order after the 9/11 attacks demonstrated "excess government zeal."

In the court case, Bauermeister said, the government argued that anything the Multicultural Association did in support of al Haramain "could look like an endorsement and increase donations, but the government's actions were so broad that we had no idea what was prohibited."

Bauermeister said the court win involved a lot of hard work by a team of lawyers and "shows our great system of checks and balances works. History will look at the first decade of this century as a dark era for our country similar to McCarthyism and Vietnam, when the country went down the wrong path for quite a while."

He added that he doesn't know whether the government will appeal the decision, but "it proved that al Haramain poses zero threat as a terrorist organization. It was founded to promote tolerance and cultural understanding and combat racism and bigotry."

Bernabei concurred. "It (Al Haramain) was a very small organization that got in some tax violations. There's never been evidence that it did anything to help terrorists. They went after Pete Seda for sloppy reporting of taxes."

"The government wanted to make it look like they're going after terrorists and they couldn't find any," she said. "They should spend their time on better targets who are dangerous."

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