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Alleging Unconstitutional Targeting, ACORN Sues US Gov't Over Defunding Vote

The anti-poverty group ACORN has filed a lawsuit against the US government that accuses Congress of punitively targeting the organization. In September, the Senate and the House voted on legislation to strip ACORN of federal funding following the release of a video in which employees of ACORN were secretly recorded giving tax advice to two conservative activists dressed up as a pimp and a prostitute. ACORN has long been a target of right-wing scorn for its work helping poor people fight foreclosures, fix tax problems, and register to vote. We speak with Bill Quigley, legal director of the Center for Constitutional Rights, who filed the lawsuit on ACORN's behalf. [includes rush transcript]



Guest:

Bill Quigley, legal director of the Center for Constitutional Rights.

RUSH TRANSCRIPT

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JUAN GONZALEZ: The anti-poverty group ACORN filed a lawsuit Thursday against

the US government that accuses Congress of punitively targeting the organization. In September, the Senate and the House voted on legislation to strip ACORN of federal funding following the release of a video in which employees of ACORN were secretly recorded giving tax advice to two conservative activists dressed up as a pimp and a prostitute. ACORN has long been a target of right-wing scorn for its work helping poor people fight foreclosures, fix tax problems, and register to vote.

AMY GOODMAN: We're joined by Bill Quigley now, legal director of the Center for Constitutional Rights. CCR filed the lawsuit yesterday on behalf of ACORN.

Welcome, Bill. Talk about what happened to ACORN.

BILL QUIGLEY: Well, ACORN has been just singled out for persecution by the far right, and it has, you know, been harassed for years. But with this sting operation by these right-wing TV folks, Congress really shifted into overdrive, and despite the fact that most—I think most of the Congress representatives knew what they were doing was illegal.

They engaged in a practice that has been prohibited since the Constitution was enacted, which is called a "bill of attainder," which just says that Congress can't single out one person or one organization and punish them. And that goes back even to the English Parliament days, is the reason it was in our Constitution. And so, Congress, though, put one sentence into the continuing budget resolutions, which says no federal funds shall go at all to ACORN, any of its subsidiaries, allies or friends.

So the lawsuit was filed on First Amendment grounds, due process grounds, and as a bill of attainder. And we have a hearing this afternoon in federal court in Brooklyn, and we expect another one next week. And we are confident, actually, that the judge will strike this punitive action against ACORN down.

JUAN GONZALEZ: Well, I want to play a recent exchange from Capitol Hill about this issue. This is Democratic Congressman Alan Grayson of Florida questioning Republican Congressman Paul Broun of Georgia.

REP. ALAN GRAYSON: Right. What does the Constitution say about bills of attainder? It's a simple question.

REP. PAUL BROUN: The Constitution says that Congress shall pass no bills of attainder, but this is not one.

REP. ALAN GRAYSON: Alright, now, would you agree with me that it is unconstitutional to single out one or more persons without the benefit of trial?

REP. PAUL BROUN: No, sir. There's a two-prong test, and this is not a bill of attainder. So, when I—

REP. ALAN GRAYSON: Alright, well, when I said—I'll reclaim my time. I just quoted William Rehnquist writing the book *The Supreme Court*. He wrote that book and said, "You cannot single out one or more persons without the benefit of trial." Will the gentlemen agree that bills of attainder are contrary to every principle of sound legislation?

REP. PAUL BROUN: The two main criteria which courts would likely look in order to determine whether legislation is a bill of attainder, one is whether this—a specific individual entity is affected by the statute; number two, whether the legislation effects a punishment on those individuals. And—

REP. ALAN GRAYSON: Will the gentleman please tell me whether you agree or not that bills of attainder are contrary to every principle of sound legislation?

REP. PAUL BROUN: Bills of attainder are unconstitutional.

REP. ALAN GRAYSON: And contrary to every principle of sound legislation,

is that correct?

REP. PAUL BROUN: That's correct.

REP. ALAN GRAYSON: Alright. And you know who said that?

REP. PAUL BROUN: Tell me.

REP. ALAN GRAYSON: James Madison in *The Federalist Papers*. The question is, will the gentleman from Georgia agree with me that the bill of attainder clause was intended not as a narrow or technical provision, but as an implementation of separation of powers, a general safeguard against legislative exercise of the judicial function or, more simply, trial by legislature? Will the gentleman agree to that?

REP. PAUL BROUN: No, sir, I will not. Now, I ask counsel to help us with this, and I think all this is determination of the court, and I'd like to yield to Mr. Sensenbrenner.

REP. ALAN GRAYSON: Well, I'm sorry, but it's my time, not yours or Mr. Sensenbrenner's, so I'll reclaim my time, and I will point out that what you just said you would not agree to is from a Supreme Court case called *United States v. Brown*, something I would expect you might know about, given your name. Listen—

REP. PAUL BROUN: Will the gentleman yield?

REP. ALAN GRAYSON: No. Listen, we are trampling on people's constitutional rights. And I think it's unfortunate that the mania that exists on the other side of the aisle regarding this one organization—and we know why that mania exists; it's because they've registered an awful lot of Democrats—continues to distort and waste the time of this committee and many other committees here in Congress. Enough is enough. I yield my remaining five seconds.

JUAN GONZALEZ: That was Democratic Congressman Alan Grayson of Florida questioning Republican Congressman Paul Broun of Georgia. Bill Quigley, your response?

BILL QUIGLEY: Well, it's clearly targeting; the congressmen know that. The problem for us is, this month it's ACORN, next month it's the NAACP, the month after that it's the ACLU. If they can just decide, without any justification, without any hearing, without any due process—and there are ways, there are absolutely legal ways, that if anybody is accused of misconduct, that you can suspend their federal grants, or you can investigate, but this is not it. Here, Congress is acting as the prosecutor, judge, jury and executioner, all without any evidence or any hearing. So that's really the thing.

Plus, on the political thing, this is clearly an attack on everybody on the far left, because they went after Van Jones, they went after ACORN. And if ACORN goes down, they're going after somebody right after that. So we need to stand up in the courts. We need to stand up in the court of public opinion and just say enough is enough. Let's be fair about how we do this.

AMY GOODMAN: Do you see any other organization being hit like this?

BILL QUIGLEY: I think that there is definitely—if you look at these right-wing blogs where they talk about ACORN, they talk about SEIU, they talk about other Democratic groups that register a lot of people to vote and that. So, definitely, there are other groups on the hit list.

And if the rest of us—I mean, ACORN has made mistakes. They say that, and they

are investigating those. And they have some problems that they have to deal with internally. A lot of big organizations do. But we have to stand up with them in solidarity in every place, because when they go down, somebody is right behind them.

AMY GOODMAN: Finally, very quick answer to this latest news that we were speaking with Andy Worthington about, this news come down about Khalid Sheikh Mohammed and the other four people being tried in New York. Center for Constitutional Rights, your organization, has represented dozens of Guantanamo prisoners.

BILL QUIGLEY: Right. We've been there for eight years, since it's opened. The prosecution in federal court, as Andy says—he's a great source for this—is long overdue. If there is evidence against people, put it before a jury, let's see it. This idea of sending people to the military commissions, though, is really second- or third-class justice, which is just a political throwaway that we're going to be dealing with forever and ever.

AMY GOODMAN: Bill Quigley, I want to thank you for being with us, legal director of the Center for Constitutional Rights.



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