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Justice Stephen Breyer, Circuit Justice for the First Circuit
The Supreme Court
One First Street, NE
Washington, DC 20543

Dear Justice Breyer:

I am writing to you in your capacity as the Circuit Justice for the First Circuit. On November 21, last, we filed a Petition for a Writ of Certiorari, or Writ of Error, to the Foreign Intelligence Surveillance Court of Review.

Our briefs were recently returned with the enclosed cover letter from the Clerk. The Clerk has apparently ruled as a matter of law that we lack authority to petition the Court, and that the Court lacks jurisdiction to review our petition.

The Court has previously indicated in *Amnesty International v. Clapper*, 133 S.Ct. 1138, 1154 (2013) that it was willing and able to consider appeals from decisions of the Foreign Intelligence Surveillance Court of Review. In this case the Court of Review has split from the circuit courts and allowed trap and trace devices to capture contents of telephone calls without a warrant.

We respectfully ask the Court consider our petition, rather than allowing the Clerk to return it undocketed, because he believes that it is improper as a matter of law. Our hope is that the Court will exercise its general superintendence power as announced in *McNabb v. United States*, 318 U.S. 332, 341 (1943), and resolve the split between the Foreign Intelligence Surveillance Court of Review and the Article III courts over the scope of the so-called "foreign intelligence exception" to the Fourth Amendment.

If in fact the Court is unable to assist in the matter we presented, that leaves only political remedies, which we consider fraught with dangers. Thank you for your consideration.

Yours truly,

John H. Walsh
Attorney at Law-