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# Lawyers Seeking Terror Suspect's Case Sue U.S.

By CHARLIE SAVAGE

WASHINGTON — A group of human rights lawyers want to stop the Obama administration from authorizing the military and the C.I.A. to kill the radical Muslim cleric [Anwar al-Awlaki](#), an American citizen believed to be hiding in Yemen.

But the group has found itself in a Catch-22-like bind: because the government has designated Mr. Awlaki a terrorist, it would be a crime for the lawyers to file a lawsuit challenging the government's attempts to kill him.

On Tuesday, the lawyers waded into that thicket. After they filed a [lawsuit](#) challenging a [Treasury Department](#) regulation that requires them to obtain permission to provide uncompensated legal services benefiting Mr. Awlaki, who has been accused of terrorism ties but has received no trial, the government suggested it was inclined to approve their application for a license. It had been pending for 11 days.

"The same government that is seeking to kill Anwar al-Awlaki has prohibited attorneys from contesting the legality of the government's decision to use lethal force against him," says the complaint, filed jointly by the [American Civil Liberties Union](#) and the Center for Constitutional Rights.

Should the lawyers overcome that hurdle, they would be in a position to seek court resolution of some of the most central legal disputes in the war against [Al Qaeda](#) — including whether the whole world is a battlefield subject to combat rules, or whether Qaeda suspects far from the armed conflicts in Afghanistan and Iraq must, in the absence of an imminent threat, be treated as criminals entitled to trials.

The Treasury Department noted that its regulation allows lawyers to provide, without seeking a specific license, some legal services to people designated as terrorists, if not a lawsuit challenging a targeted-killing order.

Adam J. Szubin, director of the department's Office of Foreign Assets Control, said it would "work with the A.C.L.U. to ensure that the legal services can be delivered."

In July, when the department labeled Mr. Awlaki a specially designated global terrorist, Stuart A. Levey, its under secretary for terrorism and financial intelligence, said Mr. Awlaki posed a threat to national security.

“Anwar al-Awlaki has proven that he is extraordinarily dangerous, committed to carrying out deadly attacks on Americans and others worldwide,” Mr. Levey said then. “He has involved himself in every aspect of the supply chain of terrorism — fund-raising for terrorist groups, recruiting and training operatives, and planning and ordering attacks on innocents.”

It has been widely reported that the Obama administration placed Mr. Awlaki on a target list earlier this year, after a Nigerian man who was charged with trying to blow up a Detroit-bound airliner on Dec. 25 told interrogators that Mr. Awlaki had directed him to undertake the attack.

Mr. Awlaki's father, Nasser al-Awlaki, contends that his son is not the terrorist the administration portrays him to be. He retained the two groups on July 7 to pursue a legal challenge to his son's inclusion on a list of people to be killed by American forces or agents without a trial.

Working without compensation, the groups began developing a lawsuit over whether the executive branch **could lawfully carry out such a killing** in the face of the Constitution's protection against deprivation of life “without due process of law.”

But on July 16 — before the groups were ready to file such a lawsuit — the Office of Foreign Asset Control **announced** that it was applying the global terrorist designation to Mr. Awlaki. That blocked his assets and made it a crime for Americans to engage in transactions with him or for his benefit without a license.

The groups applied for a license on July 23, stressing that there was no time for delay. But the government issued no response until its statement to the press on Tuesday after they sued.

The lawsuit filed on Tuesday seeks a ruling that the requirement to obtain such a license in these circumstances is illegal. The suit contends that the regulation exceeds the Treasury Department's statutory authority, violates the lawyers' own constitutional rights, and lacks sufficient standards and safeguards. It also says, however, that the groups would accept a ruling simply ordering the government to issue a license immediately.

“Targeting Americans for execution without any form of due process while at the same time obstructing lawyers' ability to challenge that policy is fundamentally un-American,” said Anthony D. Romero, the executive director of the **American Civil Liberties Union**.

Lawyers for the groups acknowledge that they could face many legal obstacles beyond the licensing requirement. The government could try to block the intended lawsuit by, for example, challenging the standing of Mr. Awlaki's father to sue, or by asserting that the dispute cannot be litigated

because the targeted-killings policy is a matter of state secrets.

Mr. Awlaki, 39, was once an imam at mosques in the United States who had a reputation as a moderate. But in 2004, he moved to Yemen and produced a series of sermons and writings calling on Muslims to wage violent war against the United States. Many of the sermons have circulated widely on the Internet.

Officials contend that since 2004, Mr. Awlaki has evolved from serving as an inspirational figure to Islamist jihadists to a more “operational” role.

In designating him last month for its global terrorist list, the Treasury Department said that Mr. Awlaki had pledged an oath of loyalty to the leader of Al Qaeda’s Yemeni branch, had recruited people to join the group, had facilitated terrorist training camps in Yemen, had solicited funding for terrorism and had helped to focus the branch’s attention “on planning attacks on U.S. interests.”

Vincent Warren, the executive director of the Center for Constitutional Rights, argued that international law did not permit a government to kill people far from combat zones, calling that assassination. And in the case of a United States citizen like Mr. Awlaki, he contended, such a policy also violates the Constitution’s Fifth Amendment — and is a dangerous precedent.

“The governmental talking points around what is at stake does not make constitutional law,” Mr. Warren said. “We are trying to take this out of the realm of Sunday morning talk shows and put these issues before a court so the government can set forth the evidence.”