

## **Appeals court takes on issue of secrecy in terror hearings**

The Philadelphia Inquirer

September 18, 2002 Wednesday CITY-D EDITION

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**The Philadelphia Inquirer**

Found on Philly.com

**Section:** Pg. A03; news

**Length:** 523 words

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### **Body**

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A federal **appeals court** in Philadelphia yesterday grappled with the controversial **issue** of whether immigration **hearings** for those involved in terrorism cases should be open to public scrutiny.

The **issue** concerns not only the uneasy balancing of the rights of immigrants facing deportation, but also public access to legal proceedings and the government's need for **secrecy** to fight international terrorism.

In a case destined for the U.S. Supreme **Court**, Chief Circuit Judge Edward R. Becker, of the U.S. **Court of Appeals** for the Third Circuit, told lawyers that he and his two colleagues understood the case's national significance and would decide it "as quickly as humanly possible."

Becker's statement likely means a decision in weeks, rather than the months the Third Circuit typically takes in deciding **appeals**.

"Society has an overwhelming interest in knowing when the government detains individuals who have lived in this country for years, holds them in some cases for months on end, and then deports them," Lee Galernt, a lawyer with the ACLU's Immigrants' Rights Project in New York, told the judges.

Galernt, who argued the case for the ACLU and two North Jersey media organizations, said the rule violates the First Amendment rights of reporters and the public to have access to legal proceedings, turning back a century of openness in immigration **hearings**.

"Loose lips sink ships," countered Deputy Assistant Attorney General Gregory G. Katsas.

Katsas argued that there is no legal foundation guaranteeing open immigration **hearings** and that the government has always had the authority to close them.

Last month, in the first **appeals court** ruling on the question, the Sixth Circuit in Cincinnati invalidated a Sept. 21, 2001, rule giving the Justice Department unilateral power to close any **hearing** involving an immigrant believed to have information about, or involvement in, the Sept. 11 or other terrorist acts.

Yesterday's argument involved a May 29 decision by Chief U.S. District Judge John W. Bissell, in New Jersey, who also struck down the Justice Department policy as a violation of the public's First Amendment rights.

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For the government, however, the stakes in the Third Circuit appeal are much higher because Bissell applied his ruling to immigration hearings nationwide. The Sixth Circuit case was tailored only to the legal issues raised by one Detroit immigrant.

In a related development, a federal judge in the Detroit case said yesterday that the Justice Department must release the cofounder of an Islamic charity accused of funneling money to terrorists, unless it holds a new and open detention hearing for the man within 10 days.

Rabih Haddad, a Lebanese citizen who had been living in Ann Arbor, has been in federal custody since his Dec. 14 arrest on a visa violation. Since then, his detention hearings have been closed to the public and the news media.

A Justice Department spokesman said the agency was reviewing the ruling.

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## Classification

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**Language:** ENGLISH

**Subject:** IMMIGRATION (91%); LAW COURTS & TRIBUNALS (90%); APPEALS (90%); APPELLATE DECISIONS (90%); JUDGES (90%); APPEALS COURTS (90%); TERRORISM (89%); JUSTICE DEPARTMENTS (89%); LITIGATION (89%); LAW ENFORCEMENT (88%); PASSPORTS & VISAS (78%); MIGRATION ISSUES (78%); DECISIONS & RULINGS (78%); SUPREME COURTS (78%); SEPTEMBER 11 ATTACK (78%); ARRESTS (78%); LAWYERS (78%); ATTORNEYS GENERAL (78%); TERRORIST ATTACKS (73%); ASSOCIATIONS & ORGANIZATIONS (66%); RELIGION (50%)

**Company:** NORTH JERSEY MEDIA GROUP INC (55%)

**Organization:** SUPREME COURT OF THE UNITED STATES (57%); SUPREME COURT OF THE UNITED STATES (57%)

**Industry:** LAWYERS (78%)

**Geographic:** MICHIGAN, USA (79%); NEW YORK, USA (79%); NEW JERSEY, USA (79%); PENNSYLVANIA, USA (79%); UNITED STATES (93%)

**Load-Date:** September 18, 2002