

DEMOCRATIC PARTY OF LANE COUNTY

PLATFORM & RESOLUTIONS COMMITTEE

10/17/2013

RESOLUTION 2013.5

A RESOLUTION OF THE DEMOCRATIC PARTY OF LANE COUNTY OF OREGON

Relating to the National Defense Authorization Act of 2012

WHEREAS, on Dec. 15, 2011, on the 220th anniversary of the Bill of Rights, the United States Senate passed the Conference Report to House of Representative bill H.R. 1540, the National Defense Authorization Act for fiscal year 2012 (2012 NDAA), which was signed into law by President Barack Obama on Dec. 31, 2011; and

WHEREAS, Section 1021(b) of the 2012 NDAA contains the following definition of who may be detained or transferred (a “covered person” who is subject to “disposition” under the law of war): “a person who was a part of or substantially supported Al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces;” and

WHEREAS, in *Holder v. Humanitarian Law Project*, the court ruled that a group providing legal aid to help a terrorist organization engage in peace negotiations and United Nations processes could be guilty under the Patriot Act of “providing expert advice or assistance” to a terrorist organization, and the NDAA explicitly states that it does not affect existing law relating the those captured or arrested; and

WHEREAS, Section 1021(c) of the 2012 NDAA states that a “covered person” may be transferred “to the custody or control of the person’s country of origin, any other foreign country, or any other foreign entity,” and we know that during the Bush years such transfers were made to places, including the United States, known to engage in torture, and could still include places known to engage in torture; and

WHEREAS, one possible “disposition” of a “covered person” is “detention under the law of war without trial until the end of the hostilities authorized by the Authorization for Use of Military Force,” and such hostilities may continue until the AUMF is rescinded; and

WHEREAS, The families of Fred Korematsu, Minoru Yasui, and Gordon Hirabayashi, Japanese Americans incarcerated in World War II, filed an amicus brief with the U.S. Court of Appeals for the Second Circuit in *Hedges v. Obama*, a lawsuit that challenges the constitutionality of the NDAA's detentions provisions, contending that the NDAA essentially repeats the decisions in the discredited World War II legal cases of Korematsu, Yasui, and Hirabayashi, and allows the government to imprison people without any due process rights for an indefinite time; and

WHEREAS, Federal Judge Katherine Forrest, in *Hedges v. Obama*, ruled Section 1021 of the 2012 NDAA unconstitutional, and this was overturned because a circuit court ruled that the plaintiffs did not have standing, since the government had not accused them under the NDAA; and

WHEREAS, our Senators Ron Wyden and Jeff Merkley, and our Representative Peter DeFazio, all voted against the 2012 NDAA, considering some provisions unwise and probably unconstitutional; and

WHEREAS, nothing in the 2013 NDAA addressed concerns about the potential misuse of executive authority affirmed by Congress in Section 1021 of the 2012 NDAA; and

WHEREAS, every Democratic member of Oregon's congressional delegation voted against the 2013 NDAA; and

WHEREAS, President Obama's signing statement for the 2012 NDAA said "my Administration will not authorize the indefinite military detention without trial of American citizens. Indeed, I believe that doing so would break our most important traditions and values as a Nation. My Administration will interpret Section 1021 in a manner that ensures that any detention it authorizes complies with the Constitution, the laws of war, and all other applicable law," but future presidents may not interpret the law in the same manner as the Obama administration; and

WHEREAS, the 2008 Democratic National Platform includes the following statements in section IV:

- As we combat terrorism, we must not sacrifice the American values we are fighting to protect. In recent years, we've seen an Administration put forward a false choice between the liberties we cherish and the security we demand. The Democratic Party rejects this dichotomy.
- We reject sweeping claims of "inherent" presidential power.
- We will revisit the Patriot Act and overturn unconstitutional executive decisions...
- We will not ship away prisoners in the dead of night to be tortured in far off countries, or detain without trial or charge prisoners who can and should be brought to justice for their crimes, or maintain a network of secret prisons to jail people beyond the reach of the law.

- We will respect the time-honored principle of habeas corpus, the seven century-old right of individuals to challenge the terms of their own detention that was recently reaffirmed by our Supreme Court.
- Our Constitution is not a nuisance.
- The Democratic Party will restore our Constitution to its proper place in our government and return our Nation to our best traditions—including our commitment to government by law; and

WHEREAS, the California senate, in a 37-0 vote, and the California assembly, in a 71-1 vote, recently passed AB 351, a law prohibiting California or its representatives from aiding the federal government in detaining persons under sections 1021 and 1022 of the 2012 NDAA.

THEREFORE, THE DEMOCRATIC PARTY OF LANE COUNTY, OREGON, RESOLVES AS FOLLOWS:

SECTION 1. That the Democratic Party of Lane County (DPLC) urges our elected officials to work towards an NDAA clearly consistent with human rights and the U.S. Constitution.

SECTION 2. That the DPLC urges Oregon's legislature to seriously investigate a law ensuring standard due process protections for those detained in Oregon with the help of Oregon authorities.

SECTION 3. That the DPLC invites other political parties and civic organizations to adopt a similar resolution.

**RESOLVED BY THE CENTRAL COMMITTEE OF THE DEMOCRATIC PARTY OF LANE COUNTY,
ASSEMBLED IN EUGENE, OREGON, OCTOBER 17, 2013**

Signed:

X _____
Julie Fahey
Chair

X _____
Andrew S. Becker
Secretary
