KEITH GARTENLAUB WONDERS WHY HE CAN'T GET THE CARTER PAGE TREATMENT

Whatever else you think of the Carter Page pseudo-scandal, the release of his FISA application has finally ended the 50 year period during which not a single person targeted under FISA has ever seen the application used to obtain the order.

That should mean that for defendants who can legitimately demonstrate there was probably something *actually* problematic with the application they can review the application and challenge the order and everything that comes from it. Keith Gartenlaub, who was targeted as a Chinese spy based off basically nothing, currently has a pending challenge in his FISA case in the 9th Circuit.

His attorney, John Cline, has already written the court pointing out that the release of Page's FISA application demonstrates DOJ's 50 year fearmongering about FISA is really overblown.

> As with the HPSCI memoranda, the declassification and disclosure of the redacted Page FISA materials demonstrates that it is possible to discuss publicly aspects of a FISA application without damaging national security. In addition, the declassification and disclosure of the redacted FISA materials highlights the absurdity of the government's assertion, in this and other cases involving motions to suppress FISA surveillance, that any disclosure of any portion of a FISA application, even to cleared defense counsel under the protections of CIPA, would harm national security. If

> the redacted Page FISA materials can be
> disclosed publicly without harming
> national security, as the Executive
> Branch has
> determined, even more substantial
> disclosure of the Gartenlaub FISA
> application can be made to cleared
> defense counsel under CIPA without
> causing such harm.

It is likely that we (or rather, Cline,
Gartenlaub's cleared attorney) would learn far
more about the things FBI gets away with in FISA
applications from Gartenlaub's application than
Page's.

If defendants like Gartenlaub can carry out such
review, we actually might be able to make FISA
more reasonable.