

Center for Justice and Accountability

Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

<https://cja.org/what-we-do/litigation/warfaa-v-ali-col-tukeh/>

Campaign and Advocacy

As the head of the Somali National Armys Fifth Brigade in the 1980s, Colonel Yusuf Abdi Ali (nicknamed Tukeh) terrorized the Isaaq clan in the northwestern region of Somalia, known today as Somaliland. One of his torture victims was Farhan Warfaa. Decades later, CJA, on behalf of Farhan, fought to bring his torturer to justice in a U.S. federal court, and won.

Early one morning in 1987, when he was only a teenager, Farhan was arrested by soldiers under the command of Colonel Yusuf Abdi Ali, also known as Colonel Tukeh, in what is now Somaliland. They took him and several of his neighbors to the Somali National Army base where for months they would be repeatedly interrogated, beaten and tortured. Farhan alleged that Colonel Tukeh interrogated him, after which Tukeh shot him at point blank range. Farhan testified at trial that Tukeh left him for dead and ordered his soldiers to get rid of the body. Miraculously, Farhan survived and was smuggled to safety.

Colonel Tukeh was one of the most ruthless commanders of the 20-year Siad Barre dictatorship and was responsible for the detention, cruel treatment, and death of a great many members of Farhans community during the countrys civil war. When Siad Barre was eventually overthrown in 1991, Tukeh fled to Canada and later became a permanent resident of the United States.

CJA filed suit on behalf of Farhan in 2004, alongside then-pro bono counsel Cooley LLP, seeking to hold Tukeh responsible for torture, extrajudicial killing, war crimes, and the systematic and widespread attack on civilians under the [Alien Tort Statute \(ATS\)](#) and [Torture Victim Protection Act \(TVPA\)](#). In 2007, the U.S. District Court for the Eastern District of Virginia administratively closed the case, pending determination of immunity issues raised in another case, [Yousuf v. Samantar](#). Farhans case was reopened in 2011, only to be stayed a second time pending the Supreme Courts decision in yet another case, [Kiobel v. Royal Dutch Petroleum Co.](#) The court finally reopened the case in 2014 and denied Tukeh immunity from suit for torture and attempted extrajudicial killing, while at the same time dismissing all of Farhans mass atrocity claims under the ATS. Both parties then appealed to the Fourth Circuit Court of Appeals.

In February 2016, the Fourth Circuit affirmed the lower courts ruling that Farhans claims for torture and attempted extrajudicial killing under the Torture Victim Protection Act can proceed, and that former government officials do not enjoy immunity from suit for violations of *jus cogens* norms. Unfortunately, the court affirmed the dismissal of Farhans claims for war crimes and crimes against humanity pursuant to the Supreme Court decision in *Kiobel*. On June 26, 2017, the Supreme Court denied cert on both issues.

On May 21, 2019, a Virginia jury found Colonel Tukeh responsible for Farhans torture, though it declined to find liability for Farhans attempted extrajudicial killing. The jury awarded Farhan, who was represented at trial by CJA and pro bono co-counsel DLA PIPER, \$500,000 in damages, including \$100,000 in punitive damages. After years of seeking accountability, our client finally got his day in court, and prevailed.



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GERALD GRAY LEGACY CIRCLE

GERALD GRAY FOUNDED CJA IN 1998 AND CONTINUES
WORKING TO HELP TORTURE SURVIVORS TODAY.

Join the Gerald Gray Legacy Circle

To join, please let us know that you have included CJA in your estate plans, insurance policy, or planned giving instrument by contacting us at center4justice@cja.org. We will ensure your gift supports CJA's mission and welcome you to the Gerald Gray Legacy Circle.

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***"We will never catch all the torturers—but we will always catch some,
and none of them will ever know who is next."***