

Center for Constitutional Rights

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

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Public Facing Advocacy Writing

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January 19, 2018, *New York Today*, in a case heard by the U.S. Supreme Court last year, the Center for Constitutional Rights (CCR) urged a federal court to protect the ability of people detained in federal prisons to sue for damages over violence and other abusive treatment. In a [June 2017 ruling](#), the Supreme Court held that high-level federal officials could not be individually sued for their policy of profiling and ultra-restrictive conditions of confinement during the post-9/11 detentions. The Court sent claims against the warden, who allowed physical and other abuse not required by the high-level officials policy, back to a lower court to determine whether the case against him may proceed.

The case, *Turkmen v. Ashcroft* (known in the Supreme Court as [Ziglar v. Abbasi](#)), was filed in the Eastern District of New York against prison administrators and high-level Bush officials for their roles in the profiling and abuse of detainees at the Metropolitan Detention Center (MDC) in New York City. In the wake of the 9/11 attacks, hundreds of non-citizen Muslim, Arab, and South Asian men were rounded up solely on the basis of their race, religion, ethnicity, and immigration status. They were held in extremely restrictive confinement and physically and psychologically abused. In sending claims against the warden back to the lower court, the Supreme Court questioned whether the men have the right to sue for damages, because although the Supreme Court had previously allowed such claims by people who were convicted and sentenced to prison, it hadn't ruled on the distinct question of claims by immigration detainees not convicted of anything.

It makes no sense that those who are suspected of violating the immigration law should have less recourse for abuse than those who have been convicted of a crime and sentenced to prison, said Center for Constitutional Rights Senior Staff Attorney [Rachel Meeropol](#). These men were brutally beaten and harassed in a federal prison. There is no question that a prisoner in the next cell, beaten by the same guards, could sue the warden who allowed it to happen. To deny my clients this last opportunity for justice would be rank discrimination and leave vulnerable thousands of other immigration detainees at a time when racist and anti-immigrant violence demands our urgent attention.

Many of the detained men were held in a specially created maximum security housing unit for months in solitary confinement, prohibited from contact with the outside world, beaten, deprived of sleep, and denied the ability to practice their religion. Upon arrival at MDC, many of the detainees had their faces smashed into a t-shirt pinned to a wall with a picture of the American flag and the words "These colors don't run and were told, Welcome to America." The blood-smearred shirt hung on the prison wall for months. Ultimately, the men were charged with civil immigration violations, such as overstaying a visa or working without authorization, cleared of any connection to terrorism, and deported.

The Supreme Court has already allowed the most powerful people responsible for my treatment to evade accountability, said [Benamar Benatta](#). If the courts let prison officials off the hook as well, I will have waited 16 years for no justice at all. Those in power will be free not only to profile people based on religion and race, but to assault and torment people while they are held.

Former MDC Warden Dennis Hasty argued in a brief also to be submitted today that he can't be held accountable for allowing the plaintiffs to be abused by the guards under his supervision because Bureau of Prisons policy requires a warden to stay his hand when he hears complaints of abuse. He also argued that he had no responsibility to protect the detainees in his facility because his superiors in the Bureau of Prisons were taking steps to prevent abuse. Meeropol called these arguments unsupported and implausible and frankly shocking.

Prior to the Supreme Court's decision, few courts even questioned the idea that federal detainees, just like convicted prisoners, could sue their abusers for money damages, and every appellate judge on the Second Circuit agreed that these claims against Hasty should go forward. The Supreme Court's June decision already reversed the balance of the [historic ruling in the case by the Second Circuit Court of Appeals](#), which had allowed claims to proceed against former Attorney General John Ashcroft, former FBI director Robert Mueller, and former Immigration and Naturalization Service Commissioner James Ziglar for ordering that the men be held on the basis of blatantly discriminatory tips about their race, religion, and ethnicity. Now the remainder of the case hangs in the balance.

The *Turkmen* plaintiffs are represented by the Center for Constitutional Rights, cooperating attorneys Michael Winger and Alexander A. Reinert, and Covington & Burling, LLP.

The case was first filed in April 2002 and has been working its way through the courts ever since.

Read the briefs filed today [here](#) and [here](#). For more information, [visit CCR's case page](#).

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, the Center for Constitutional Rights has taken on oppressive systems of power, including structural racism, gender oppression, economic inequity, and governmental overreach. Learn more at ccrjustice.org.

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