

# Center for Constitutional Rights

## Discrimination, Detention, and Deportation: Immigration & Refugees

<https://ccrjustice.org/home/blog/2018/01/19/last-chance-accountability-post-911-round-ups>

### Public Facing Advocacy Writing

The CCR blog

[Ahmer Abbasi](#) came to the United States from Pakistan on a visitor visa in 1993. After he arrived, he applied for political asylum, and remained in the country after his visa was denied. Two weeks after the 9/11 attacks, Ahmer was arrested based on a tip that a male, possibly Arab (who turned out to be a house guest of Ahmers) had left false identification using Ahmers address at a DMV. Ultimately arrested on grounds that he overstayed his visa, Ahmer was taken to a jail in Brooklyn where he was held for nearly 11 months; he was physically and psychologically abused, and then deported. For 16 years, has been fighting for justice.

Ahmer is a client in CCRs case [Turkmen v. Ashcroft](#). He is one of nearly a hundred Muslim, Arab, and South Asian men who were rounded up based on discriminatory tips in the wake of the September 11 attacks, held as suspected terrorists, imprisoned under extremely restrictive conditions, beaten, and harassed. Since *Turkmen* was filed in 2002, the plaintiffs have been to the district court, the appellate court, and even the U.S. Supreme Court, and back down. They have sought to hold the prison officials involved in the abuse as well as the high-level government officials who ordered it accountable. Today, [they filed briefs](#) in pursuit of their last chance at compensation and justice for the abuse they suffered.

Like Ahmer, most of these men came to the attention of the FBI through tips lodged by scared citizens tips reporting Arabs working long hours, or Middle Eastern men renting post office boxes. Former FBI Director (and current Trump-Russia investigator) Robert Mueller ordered that all tips be thoroughly investigated, even those based only on religion and ethnicity. Presuming a direct correlation between religion and dangerousness, then-Attorney General John Ashcroft ordered everyone arrested on such tips held as a suspected terrorist until cleared by the FBI.

A year ago yesterday, in [the last case heard at the U.S. Supreme Court](#) under the Obama administration, [CCR Senior Staff Attorney Rachel Meeropol](#) argued before the Court, urging it not to insulate the high-level Bush officials from liability. CCR asked the Court to uphold [a landmark decision](#) by the Second Circuit Court of Appeals that held, essentially, that such high-level officials are not immune from suit for their wrongdoing: that in a constitutional system, no officer is above the law.

But, in a decision that could embolden a president who has already demonstrated disdain for the rule of law, blatant racial animus, and intoxication with executive power, the Supreme Court [reversed the Second Circuit ruling](#). The court held that individuals cannot sue high-level officials over policy decisions made in the name of national security even when that policy is blatantly discriminatory and unconstitutional. In effect, the Supreme Court handed the Executive Branch a national security get-out-of-jail-free card.

CCR client [Anser Mehmood](#) had no such card. He too was held at the Metropolitan Detention Center after September 11. Upon arrival, he was dragged from a van, thrown into several walls, and had his hand broken in the process. While imprisoned, like Ahmer and other men, Anser was held in solitary confinement, denied access to an attorney and his family, arbitrarily strip-searched, subjected to sleep deprivation, and denied soap, toilet paper, and adequate food. Guards called the men terrorists and shouted Jesus while they tried to pray. Anser did not get out of jail for seven months, when he was deported.

In *Turkmen*, the plaintiffs have alleged that the MDC warden encouraged guards to carry out such abuses: he referred to the men as terrorists and deliberately stayed out of their restrictive housing units to turn a blind eye to the abuse. And, even after prisoners and staff complained to him about the abuses and despite prisoner hunger strikes and suicide attempts, he did nothing to stop this treatment.

When it ruled in June, the Supreme Court remanded to the lower courts the question of whether Anser, Ahmer, and their fellow plaintiffs can sue prison administrators, in particular then-MDC Warden Dennis Hasty, who permitted and even encouraged physical, verbal, and religious abuse. After the Supreme Court insulated those with the most power from liability, it is essential that this avenue for accountability remains open.

It has long been established that convicted prisoners can sue wardens and other supervisors for abuse and unsafe conditions, but the former warden of MDC is now arguing that these non-citizen detainees, similarly abused, should not have the same right. Every judge who had previously confronted the claims against the warden in *Turkmen* had allowed those claims to proceed. An adverse ruling on this question would have serious repercussions for the thousands of individuals held in immigration detention, not to mention a perverse incentive to provide less legal protection to detainees than those already convicted of a crime.

Benamar Benatta was at MDC, too. He was held in a cell with the light on 24-hours-a-day. He was beaten several times and tied to a bed in, in his words, a manner that reminds [him] of the Dark Ages. He was strip searched almost daily. When he protested with a hunger strike, he was paraded half naked outside his cell.

After 16 years, [the briefs filed today](#) represent the last chance for justice for Benamar, Anser, Ahmer, and many others. The courts should not take it from them.

[View the discussion thread.](#)

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