

Center for Constitutional Rights

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

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Public Facing Advocacy Writing

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February 16, New York A group of Muslim, Arab, and South Asian men rounded up after 9/11 are seeking money damages from a warden they say allowed and encouraged abuse and discrimination by guards under his supervision. Their case has been to the Supreme Court and back. Today, lawyers from the Center for Constitutional Rights appealed a district court ruling on their behalf.

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 twenty 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.

The plaintiffs and other 9/11 detainees Muslim, Arab, and South Asian non-citizens were placed in solitary confinement for months on end even though they were only charged with civil immigration violations such as overstaying a visa or working without authorization. Though the government had no reason to consider them dangerous, they were detained as suspected terrorists until cleared of any connection to terrorism by the FBI, and then deported.

Among other documented abuses in detention, including beatings, forced sleep deprivation, and racial and religious slurs, many of the 9/11 detainees had their faces smashed into a wall where guards had pinned a t-shirt with a picture of an American flag and the words, These colors dont run. The men were slammed against the t-shirt upon their entrance to MDC and told welcome to America. The t-shirt was smeared with blood, yet it stayed up on the wall at MDC for months.

The lawsuit charges that Dennis Hasty, former warden of the Metropolitan Detention Center (MDC), and MDC supervisors Salvatore Lopresti and Joseph Cuciti were deliberately indifferent to the abuse meted out by their subordinates. Hasty, who referred to the detained men as terrorists in memos, avoided witnessing the abuse by not making required rounds on the unit and tried to deny the plaintiffs the means to file internal complaints. Numerous complaints were lodged, however, and led to investigations by federal agencies. In response, the Bureau of Prisons instituted a policy of videotaping all 9/11 detainee transports. The videos, later included in a report by the Inspector General, showed the guards stepping on detainees restraints, twisting their hands behind their backs, and otherwise abusing the men. Still, Hasty failed to take any steps to protect them.

If federal officials cannot be held accountable when they violate the Constitution, what will stop them from doing it again and again? It is long past time for our courts to remedy these deplorable acts, said [Rachel Meeropol](#), a Senior Staff Attorney at the Center for Constitutional Rights.

The case began as [Turkmen v. Ashcroft](#), the class action lawsuit the Center of Constitutional filed in September 2002 to try to hold accountable those responsible for the religious and racial profiling and abuse of men at the MDC after 9/11. The defendants included then Attorney General John Ashcroft and then FBI Director Robert Mueller. In 2017, the Supreme Court heard the case under the name *Ziglar v. Abbasi* and dismissed all of the claims except the one against Hasty, Lopresti, and Cuciti. It remanded the case back to the U.S. District Court.

It has long been established that people convicted of criminal offenses can sue federal wardens for deliberate indifference under a so-called [Bivens](#) remedy. In this case, plaintiffs argue that people detained under civil authority, here immigration detention, should be able to do the same. The district court disagreed, ruling that imposing liability on a warden for allowing abuse might lead that warden to conceal future abuse and that an alternative remedy exists in the form of the Federal Tort Claims Act (FTCA).

In the appeal brief filed today, lawyers for the men argued that the district court decision violates Supreme Court doctrine on both grounds and should be reversed. The Supreme Court has long accepted that the threat of liability, in fact, deters misconduct rather than encourages it. Further, the Supreme Court has concluded that Congress intended the FTCA to supplement, not supplant, the *Bivens* remedy and that it does not adequately protect constitutional rights.

What is not in dispute is that in the days after 9/11, dozens of men faced systemic abuse at the MDC due to their race, religion, immigration status, and ethnicity. Twenty years later, no official has been held accountable.

The men are represented by the Center for Constitutional Rights, Covington & Burling LLP, and attorneys Michael Winger and Alexander Reinert.

For more information, visit [the Center for Constitutional Rights 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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