

Center for Justice and Accountability

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

<https://cja.org/fourth-circuit-denies-immunity-former-somali-war-criminal/>

Public Facing Advocacy Writing

Today, the Fourth Circuit Court of Appeals ruled in [Warfaa v. Ali](#) that Colonel Yusuf Abdi Ali is not immune from suit for the torture and attempted murder of Farhan Mohamoud Tani Warfaa, a Center for Justice and Accountability (CJA) client. While the decision affirms that war criminals living in the United States must answer their victims in U.S. courts, the Fourth Circuit Court of Appeals dismissed Mr. Warfaas claims for war crimes and crimes against humanity.

We welcome today's ruling that Colonel Ali must face justice for his crimes in court, said CJA Legal Director Kathy Roberts. But we respectfully disagree with the panels decision to dismiss the mass atrocity claims. She added, The attacks on Mr. Warfaa were not isolated. They were part of a systematic and widespread attack on civilians. Colonel Ali should be held to account for all of his crimes.

The appeals courts decision adopts Fourth Circuit precedent established in CJA case [Yousuf v. Samantar](#), finding that simply having held a government office does not provide perpetrators of human rights crimes with a shield against victim redress for the most fundamental protections of international law like freedom from torture and extrajudicial killing. Today's decision paves the way for Mr. Warfaa to pursue his claims under the Torture Victim Protection Act, a law that explicitly applies to claims of torture and extrajudicial killing committed overseas.

However, the appeals courts decision, relying on an expansive reading of the Supreme Courts decision in *Kiobel v. Royal Dutch Petroleum*, further limits lawsuits under the Alien Tort Statute in U.S. courts for violations of the laws of nations. Roberts said, The decision appears to reverse more than three decades of legal precedent that has allowed victims of human rights abuses to bring lawsuits under the Alien Tort Statute in U.S. courts against the worst international human rights criminals when they are found in this country for mass atrocities such as war crimes and crimes against humanity committed abroad. The *Kiobel* decision applied to a corporate defendant who had no significant contacts with the United States. The *Tuohy* case concerns an individual defendant who resides in Fairfax, Virginia and has availed himself of the rights and privileges of living in the U.S.

CJA represents Farhan Mohamoud Tani Warfaa, who at the age of 17 was rounded up from his home by Col. Alis troops and taken to a military prison. There, Mr. Warfaa was repeatedly interrogated and tortured by Col. Ali and soldiers under his command, and then was shot five times at point blank range by Col. Ali and left for dead. This case is emblematic of the crimes against humanity perpetrated under the Siad Barre regime that claimed the lives of tens of thousands of Somali civilians during the 1980s. When Barres regime finally collapsed in 1991, Somalia was plunged into a chaotic internal conflict from which it has never recovered.



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

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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."***