

Center for Justice and Accountability

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

<https://cja.org/fourth-circuit-court-of-appeals-to-review-standards-for-accountability-for-torture-war-crimes/>

Public Facing Advocacy Writing

For Immediate Release
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WHO:

WHAT:

The Center for Justice & Accountability (CJA) and pro bono co-counsel DLA Piper will present oral argument in an appeal before the Fourth Circuit Court of Appeals in [Warfaa v. Ali](#), a case brought by a Somali torture survivor against the responsible war criminal currently living in Virginia.

The defendant, former Somali commander Colonel Yusuf Abdi Ali, seeks 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 their tormentors when they are found in this country for mass atrocities such as war crimes and crimes against humanity committed abroad. CJA client Farhan Mohamoud Tani Warfaa has accused Col. Ali of torturing him and attempting to kill him by firing his pistol at Mr. Warfaa five times at point blank range. Further, Mr. Warfaa alleges that these attacks on his person were also war crimes and crimes against humanity.

Col. Ali's interpretation of a recent Supreme Court opinion regarding the Alien Tort Statute would insulate him from civil liability for these mass atrocity crimes. The trial court in Alexandria agreed with Col. Ali's interpretation, even though Mr. Warfaa cannot bring his claims to any other court since Col. Ali resides in Virginia. This is why CJA and DLA Piper are appealing the trial court's decision.

This appeal will present the first instance in which an appellate court will apply the recent Supreme Court opinion in *Kiobel v. Royal Dutch Petroleum* to claims against an individual perpetrator seeking safe harbor in the United States. Thus, this case will be the first to decide whether the U.S. will legally provide such safe harbor for Col. Ali and other perpetrators of mass atrocity crimes.

WHEN: 9:30 am, September 16, 2015

WHERE: United States Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. United States Courthouse & Annex
1000 1100 E. Main Street
Richmond, Virginia 23219

ADDITIONAL BACKGROUND ABOUT THE CASE:

In 2004, CJA filed a case against high-ranking Somali commander, Colonel Yusuf Abdi Ali, for war crimes he personally perpetrated and for human rights abuses soldiers under his command committed in northern Somalia in the 1980s, during the regime of Somali dictator Siad Barre. Eyewitness accounts suggest Col. Ali willfully participated in the escalating violence against people of Isaaq heritage. Col. Ali ordered public mass executions and infamously killed a sheikh by his own hand.

CJA represents Farhan Mohamoud Tani Warfaa, an Isaaq Somali survivor whom Col. Ali and his troops tortured and whom Col. Ali personally shot five times at point blank range, leaving him 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 Barre's regime finally collapsed in 1991, Somalia was plunged into a chaotic internal conflict from which it has never recovered.

Col. Ali resides in Fairfax, Virginia, and his case is before the Eastern District of Virginia, where it has been delayed by extensive motion practice and stays. Finally, on April 25, 2014, after the State Department had declined multiple times to express an opinion on the impact of the case on U.S. foreign policy or on Col. Ali's bid for common law immunity, the court finally reopened the case.

On May 31, 2014, Col. Ali's defense moved to dismiss the case, and on July 25, 2014, the judge announced at the hearing that she would dismiss all of Mr. Warfaa's claims under the Alien Tort Statute (ATS), including war crimes and crimes against humanity, based on *Kiobel v. Royal Dutch Petroleum*, a Supreme Court case that limited the reach of the ATS. She also denied Col. Ali's motion to dismiss our clients' claims under the Torture Victim Protection Act. Both parties have appealed her judgment to the Fourth Circuit Court of Appeals, and a hearing has been scheduled for September 16, 2015.

The questions presented are (1) whether the claims against Col. Ali touch and concern the United States with sufficient force to displace the *Kiobel* presumption against extraterritoriality; and (2) whether Col. Ali is entitled to immunity from suit under the common law.

About the Center for Justice and Accountability The Center for Justice and Accountability is an international human rights organization dedicated to deterring torture, war crimes, crimes against humanity and other severe human rights abuses around the world through litigation, policy advocacy and outreach in pursuit of truth, justice and redress for victims and survivors. For more information, visit www.cja.org.



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

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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."***