

# Center for Constitutional Rights

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

<https://ccrjustice.org/home/what-we-do/our-cases/arar-v-ashcroft-et-al>

### Policy Issue Resources

On June 14, 2010, the Supreme Court denied Mr. Arar's petition for *certiorari* to review the Second Circuit Court of Appeals' *en banc* decision dismissing his case, ending his case in U.S. courts. Mr. Arar has continued his efforts to seek accountability for those complicit in his torture; in September 2015, Canada announced charges against Syrian intelligence officer Col. George Salloum, who tortured Mr. Arar.

DLA Piper US LLP

*Arar v. Ashcroft* was a federal lawsuit challenging the rendition to torture of Canadian citizen Maher Arar by U.S. government officials. Mr. Arar was detained at JFK airport in September 2002 while on his way home to Canada from abroad. He was interrogated, detained for two weeks, denied access to a court and meaningful access to counsel, and secretly rendered to Syria where he was tortured and held in a grave-like underground cell for over ten months. He was never charged with a crime.

Mr. Arar's lawsuit was brought in the United States District Court for the Eastern District of New York against Attorney General John Ashcroft, Deputy Attorney General Larry Thompson, FBI Director Robert Mueller, and several U.S. immigration officials for violating his constitutional right to due process and the Torture Victim Protection Act. Mr. Arar alleged that the officials violated his Fifth Amendment rights by conspiring to subject him to arbitrary detention and torture in Syria and by blocking his access to court to ensure that he could not stop them.

The U.S. government official defendants challenged the suit, claiming that even if Mr. Arar's allegations were true, he had no judicial remedy. The U.S. government also asked that the court dismiss the case, arguing it would expose state secrets and harm national security. In 2006, Judge Trager dismissed Mr. Arar's claims, finding that national security and foreign policy considerations prevented him from holding U.S. officials liable. Mr. Arar appealed this decision to a three-judge panel of the Second Circuit Court of Appeals, which affirmed the dismissal 2-1 in June 2008, agreeing with the lower court that Mr. Arar's claims would interfere with national security.

In an extremely rare move, the Second Circuit Court of Appeals decided that Mr. Arar's appeal would be reheard by the full active court in December 2008. On November 2, 2009, the full Court of Appeals dismissed the case 7-4, concluding that in cases of extraordinary rendition, it is not the courts' role to decide whether U.S. officials can be held accountable, because of foreign policy, national security, and secrecy concerns. In a strongly worded dissent, Judge Guido Calabresi wrote, "I believe that when the history of this distinguished court is written, today's majority decision will be viewed with dismay."

For more information, read CCR's [factsheet](#) and [report](#) on his rendition and [watch Mr. Arar speak about his experience](#).

The RCMP announces it will attempt to extradite Syrian intelligence officer Col. George Salloum to be tried for the torture of Maher Arar. The news follows a 2005 complaint launched with the RCMP by Mr. Arar seeking Salloum's prosecution. Mr. Arar's wife, Monia Mazigh, reads a statement on his behalf: "It is my hope that Col. George Salloum will be found alive, arrested, and will be extradited to Canada to face Canadian justice. Since I launched my complaint in 2005, I gave the RCMP investigating team, during the many interviews I had with them, the information they needed to advance their investigation. Mazigh says, "People wouldn't even admit he was tortured. This is a clear message to my husband and to whoever denied that torture happened that this is real and that you cannot commit torture [with] impunity. It is symbolic, but at the same time, it is personal."

In an article in the *Canadian Press*, John Kiriakou says "I can tell you that a lot of people inside the CIA objected to this. He continues: 'I remember hearing some of the conversations that, 'This is the wrong guy, this is a mistake. And then one officer in particular (was) saying, 'No, this is not the wrong guy. We're going to take him. She was certain that we had the right guy. That Maher Arar was an al-Qaeda whatever-he-was a facilitator, or whatever and we were moving forward with it.'"

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Defendants file their briefs in opposition to Maher Arar's petition for *certiorari*

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Multiple groups, individuals file amicus briefs in support of Mr. Arars petition for *certiorari*

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CCR petitions Supreme Court for review of Second Circuit Court of Appeals' *en banc* decision dismissing Mr. Arar's case

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Second Circuit Court of Appeals *en banc* affirms district courts decision dismissing case

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CCR files opening appellate brief for rehearing *en banc*

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Second Circuit *sua sponte* issues order that case be reheard *en banc*

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Canadian Prime Minister Stephen Harper apologizes to Mr. Arar and his family for their terrible ordeal and announces payment of \$10 million in compensation as part of the agreement to settle his case against the Canadian government.

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