

# Center for Constitutional Rights

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

<https://ccrjustice.org/home/blog/2016/08/08/911-detentions-case-doesn-t-need-supreme-court-s-review>

### Public Facing Advocacy Writing

The CCR blog

Its been almost fifteen years since 9/11, and the sweep of Arab, South Asian, and Muslim men from the streets of New York and New Jersey in the immediate aftermath of the attacks. Those of you who lived in New York City then surely remember it well: within days of the attacks, Middle Eastern men began disappearing. Months later they turned up in detention centers and federal jails, arrested on immigration charges but secretly held as suspected terrorists under then-Attorney General John Ashcrofts misguided plan to prevent another terrorist attack by arresting every Middle Eastern Muslim he could, and then pressuring them to disclose any information they might have about terrorists. Ashcroft worked with Robert Mueller, then head of the FBI, to set up a 9/11 tip-line, and Mueller ordered that each of the thousands of citizen tips that resulted be thoroughly investigated, even those based on nothing more than discriminatory notions about the callers neighbors. [Ibrahim Turkmen](#)s landlady, for example, called the FBI to report that she rented an apartment in her home to several Middle Eastern men, who were good tenants, and paid their rent on time, but she would feel awful if her tenants were involved with terrorism, and she didnt call. Turkmen was arrested as a result, and detained for months in Passaic County Jail in New Jersey before he was cleared of any connection to terrorism and deported.

I started at CCR a year after 9/11, and my very first assignment as a new lawyer was to draft a section of our opposition to the governments motion to dismiss [Turkmen v. Ashcroft](#), the case we brought in early 2002 on behalf of Ibrahim and other non-citizens suspected of terrorism based on only on their religion, race, or ethnicity, and vulnerable to arrest based on their immigration status. Through countless jail visits the year before, CCR had learned that hundreds of non-citizens were being held for investigation into terror ties. Many ended up at the federal Metropolitan Detention Center in Brooklyn. Though ostensibly arrested for civil immigration violations, like overstaying a visa or working unlawfully, the 9/11 detainees at MDC were placed in an ultra-restrictive solitary confinement unit called the Administrative Maximum Special Housing Unit or ADMAX SHU. They were locked in barren cells at least 23 hours a day, with the lights on all day and night. For recreation, they were transported in handcuffs, shackles, and a waist chain, to a barren cage open to the elements. MDC guards beat and harassed them, denied them soap and toilet paper, and refused to let them pray or sleep.

One of our clients, [Anser Mehmood](#) described the abuse as follows:

*I was thrown ina cell they callleda hole, but I called it a grave. [They] put [an] innocent person in a grave for a period of four months, the guards didnt let us sleep, abused us and all Muslims, and called me and other inmates camels. I kept asking Al Mighty Allah SWT, what have I done that Im getting this type of punishment? Where had thepillars of human rights of the U.S. constitution gone?*

CCR filed *Turkmen* as a class action, aiming to sue on behalf of all of the Muslim, Arab, and South Asian men subjected to such profiling and abuse. We sued not only the guards and supervisors at MDC who were directly responsible for Anser and our other clients abuse, but also Ashcroft, Mueller, and James Ziglar (then head of the INS). Though civil plaintiffs have *never* actually prevailed in getting damages from such high-level government officials for actions taken while in office, we sued Ashcroft and his cronies because they ordered the discriminatory sweeps and the abuse that followed. Unless they were held personally liable, our clients worried that future government officials would feel free to do the same. For fifteen years now, we have been working with dozens of men detained after 9/11 in this fight against impunity.

The case is now at a turning point. Last year the Second Circuit Court of Appeals [ruled](#) that we could move forward against Ashcroft and the other high-level Bush officials. After over a decade of litigation, we were poised to finally get discovery from the defendants, to sit General Ashcroft himself down, under-oath, and ask him about the detentions. Instead, Ashcroft and his co-defendants have asked the Supreme Court to take the case, insisting that *even if they discriminated against our clients and caused their abuse in custody*, they (and other top government officials) should be allowed to avoid liability for their actions. According to Ashcroft, Mueller, and Ziglar, the courts should not even *hear* claims by non-citizens challenging national security policy in the wake of a terrorist attack.

Today, CCR filed our [brief in opposition](#) to that motion. It is our position that no person, not even an attorney general, is above the law. As the Second Circuit correctly held, defendants arguments presume, in essence, that all out-of-status Arabs or Muslims were potential terrorists until proven otherwise. It is built on a perception of a race and faith that has no basis in fact. The Supreme Court endorsed that same discriminatory notion 75 years ago, in the roundly discredited [Korematsu v. United States](#) ruling. History must not be repeated today.

The Supreme Court will likely decide whether or not to take the case early in its next term, which begins this fall. Though we remain hopeful the Court will decline review, in the event of they do take the case, we looking forward to standing with you all, as we take this 15-year battle for justice into its next stage.

*CCR represents the plaintiffs in Turkmen v. Ashcroft, along with co-counsel Covington & Burling LLP, and cooperating attorney Michael Winger.*

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