

Center for Constitutional Rights

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

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

Campaign and Advocacy

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Salah Hasan Nusaif Al-Ejaili
Asa'ad Hamza Hanfoosh Zuba'e

Taha Yaseen Arraq Rashid was formerly a client in the case.

Al Shimari v. CACI is a federal lawsuit brought by the Center for Constitutional Rights on behalf of four Iraqi torture victims against U.S.-based government contractor CACI International Inc. and CACI Premier Technology, Inc. The lawsuit asserts that CACI directed and participated in illegal conduct, including torture, at the Abu Ghraib prison in Iraq where it was hired by the U.S. to provide interrogation services. CCR's four clients were all held at the hard site in Abu Ghraib prison in 2003-2004. This case is part of CCR's effort to bring accountability for torture and other serious violations of international law arising out of the so-called war on terror and invasion of Iraq.

The lawsuit was originally brought against L-3 Services Incorporated (formerly Titan Corporation), CACI International Inc., and Timothy Dugan, a former employee of CACI. CACI and L-3 Services were the U.S. government contractors responsible for interrogation and translation services, respectively, at Abu Ghraib prison and other facilities in Iraq. L-3 Services and Timothy Dugan were dismissed as defendants in the case in 2008, and the litigation has proceeded against CACI.

The case, brought under the Alien Tort Statute (ATS) and federal question jurisdiction, brings claims arising from violations of U.S. and international law, including torture; cruel, inhuman, or degrading treatment; war crimes; assault and battery; sexual assault and battery; intentional infliction of emotional distress; negligent hiring and supervision; and negligent infliction of emotional distress. Through this action, the clients seek compensatory and punitive damages.

Our clients are Iraqis civilians who were ultimately released without ever being charged with a crime. They all continue to suffer from physical and mental injuries caused by the torture and other abuse they endured. Here's a brief description of the acts to which they were subjected at the hands of CACI employees and certain government co-conspirators:

Suhail Najim Abdullah Al Shimari was detained from 2003 until 2008, during which he was held at the Abu Ghraib hard site for about two months. While he was there, CACI and its co-conspirators tortured him in various ways: he was subjected to electric shocks, deprived of food, threatened by dogs, and kept naked while forced to engage in physical activities to the point of exhaustion.

Asaad Hamza Hanfoosh Zubae was imprisoned at Abu Ghraib from 2003 until 2004. CACI and its co-conspirators tortured him while he was detained there by subjecting him to extremely hot and cold water, beating his genitals with a stick, and detaining him in a solitary cell in conditions of sensory deprivation for almost a full year.

Salah Hasan Nusaif Al-Ejaili, an Al Jazeera journalist, was imprisoned at the Abu Ghraib hard site for approximately two months. While he was there, CACI and its co-conspirators stripped him and kept him naked, threatened him with dogs, deprived him of food, beat him, and kept him in a solitary cell in conditions of sensory deprivation. See his interviews with [Democracy Now!](#) and [BBC Witness](#).

Taha Yaseen Arraq Rashid was dismissed from the case in February 2019. He was detained from 2003 until 2005, during which he was imprisoned at the Abu Ghraib hard site for about three months. While he was detained there, CACI and its co-conspirators tortured Mr. Rashid by placing him in stress positions for extended periods of time; humiliating him; depriving him of oxygen, food, and water; shooting him in the head with a taser gun; and by beating him so severely that he suffered broken limbs and vision loss. Mr. Rashid was forcibly subjected to sexual acts by a female as he was cuffed and shackled to cell bars. He was also forced to witness the rape of a female prisoner.

For more information about accountability for torture by private military contractors, see CCR's [factsheet](#).

CACI files further motion to dismiss for lack of subject matter jurisdiction

CACI files further motion to dismiss for lack of subject matter jurisdiction

CACI files a further motion to dismiss based on the Supreme Court decisions *Egbert v. Boule*, *Biden v. Texas*, and *Torres v. Texas Dep't*

of Public Safety. We file our opposition on August 10, 2022, and CACI files its reply on August 18, 2022.

CACI moves to dismiss case based on Supreme Court [Nestl v. Doe](#) decision

CACI moves to dismiss case based on Supreme Court [Nestl v. Doe](#) decision

Plaintiffs file their opposition on August 20, 2021, arguing that the "touch and concern" test in [Kiobel](#), and the courts' application of it to this case, remain good law post-[Nestl](#), and that the plaintiffs' claims of aiding and abetting and conspiracy to commit torture, war crimes, and cruel treatment are a permissible domestic application of the [ATS](#). CACI files its reply on September 2, 2021.

Judge Brinkema denies CACI's motion to dismiss following Supreme Court [Jesner](#) decision

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In her June 25, 2018 opinion, Judge Brinkema denies CACI's motion to dismiss plaintiffs' ATS claims, finding that [Jesner v. Arab Bank](#) only curtails ATS jurisdiction over foreign corporations. Judge Brinkema further finds that adjudication of the Abu Ghraib torture survivors' claims against a U.S. corporation raises no separation-of-powers or foreign relations concerns.

CACI files motion to dismiss case, citing recent Supreme Court decision in [Jesner v. Arab Bank](#)

CACI files motion to dismiss case, citing recent Supreme Court decision in [Jesner v. Arab Bank](#)

CCR files its opposition on June 4, 2018, arguing that the Supreme Courts decision in the [Jesner v. Arab Bank](#) case does not foreclose plaintiffs claims of torture, war crimes and cruel, inhuman, and degrading treatment under the [Alien Tort Statute](#) against a domestic corporation. CACI files its reply on June 11, 2018.

Court rules that claims for torture; cruel, inhuman, and degrading treatment; and war crimes can be brought under [Alien Tort Statute](#) against private actors

Court rules that claims for torture; cruel, inhuman, and degrading treatment; and war crimes can be brought under [Alien Tort Statute](#) against private actors

Judge Lee issues the order of recusal *sua sponte*.

Amicus briefs are submitted by professors of constitutional law and federal courts, UN Special Rapporteur on Torture Juan Mndez, retired military officers, human rights organizations, former Navy General Counsel Alberto Mora, and survivors of gross human rights violations who have won ATS cases. Government contractor trade associations and KBR file amicus briefs in support of CACI on October 30 and November 2, 2015.

District court dismisses case on political question grounds

District court dismisses case on political question grounds

Judge Lee dismisses the case, concluding that CACI's actions were controlled by the U.S. military and that assessing torture and war crimes claims would require an impermissible review of the military's judgment, and thus the issues in the case present a political question that the judiciary cannot appropriately answer.

Briefing and hearing on political question doctrine

Briefing and hearing on political question doctrine

CACI files a motion to dismiss the case for lack of subject-matter jurisdiction, asserting that the plaintiffs' claims raise political questions the judiciary cannot answer, on November 21, 2014. Plaintiffs file their opposition to the motion to dismiss on December 19, 2014, arguing that CACI was not under plenary military control, that hearing claims that private contractor CACI acted unlawfully does not implicate sensitive military decisions, and that there are judicially manageable standards in place, including to assess CACI's conduct against the War Crimes and Anti-Torture statutes. CACI files its reply on January 2, 2015. Oral argument is heard on February 6, 2015.

Briefing on elements of Alien Tort Statute claims

Briefing on elements of Alien Tort Statute claims

Plaintiffs file a brief setting out the elements of their war crimes, torture and cruel, inhuman and degrading treatment claims under the Alien Tort Statute on November 5, 2014. The defendants file their brief on November 14, 2014.

Fourth Circuit vacates district court's judgment and reinstates case

Fourth Circuit vacates district court's judgment and reinstates case

The Fourth Circuit Court of Appeals vacates the district court's judgment and remands all the plaintiffs' claims for further proceedings on June 30, 2014. The court holds that the case satisfies the [Kiobel](#) touch and concern test, finding that torture and other human rights violations committed by a U.S. corporation at a U.S.-controlled prison in a conspiracy with U.S. soldiers can be heard in a U.S. court under the ATS.

Fourth Circuit Court of Appeals hears oral argument

Fourth Circuit Court of Appeals hears oral argument

Oral argument is heard before Judges Keenan, Floyd and Cogburn in Richmond, Virginia.

Appellate briefing

Appellate briefing

Plaintiffs file their opening appeal brief with the Fourth Circuit Court of Appeals on October 29, 2013. Plaintiffs argue that their claims, including war crimes and torture, brought against a U.S. corporation that U.S. military investigators had determined in 2004 conspired with court-martialed U.S. soldiers in sadistic, blatant, and wanton criminal abuses of detainees at Abu Ghraib in U.S.-occupied Iraq touch and concern the United States. Six amicus briefs are filed in support of plaintiffs on November 5, 2013 by retired military officers; past United Nations Special Rapporteurs on Torture and current Rapporteur Juan Mndez; a group of human rights survivors who successfully sought redress in U.S. courts under the ATS, including Dolly Filrtiga, plaintiff in the first modern use of the ATS to obtain accountability for human rights abuses; a group of civil procedure professors; international law and civil procedure scholars; and historians of international law. All argue that *Al Shimari* is not only permitted under [Kiobel](#), but also that international law requires the U.S. to provide a forum for seeking accountability and redress for the torture and other serious human rights violations at Abu Ghraib. CACI files its opening appeal brief on December 2, 2013. Plaintiffs file their reply brief on December 16, 2013.

Plaintiffs are ordered to pay \$13,731.61 in costs to CACI

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Defendants file a Bill of Costs, seeking payment of \$15,580 from the plaintiffs, on August 2, 2013. Plaintiffs file their opposition to CACI's Bill of Costs on August 12, 2013. Defendants file their reply on August 19, 2013. On August 30, 2013, the defendants motion for Bill of Costs is granted, with plaintiffs ordered to pay \$13,731.61.

Judge Lee dismisses plaintiffs' ATS and common law claims, thereby dismissing case

Judge Lee dismisses plaintiffs' ATS and common law claims, thereby dismissing case

The court hears CACI's motion to dismiss the plaintiffs Alien Tort Statute claims in light of the Supreme Court's recent decision in [Kiobel v. Royal Dutch Shell Petroleum Co.](#), as well as to dismiss three of the plaintiffs' common law claims, on May 10, 2013. Judge Lee dismisses the plaintiffs' case on June 26, 2013, finding that the Alien Tort Statute cannot apply to violations occurring outside the United States, and that the remaining common law claims are barred because Iraqi law applies. The district court narrowly interprets the presumption against extraterritorial application of the ATS set forth in *Kiobel* to foreclose claims arising in Iraq, disregarding the fact that CACI is a U.S.-based corporation, it is alleged to have conspired with U.S. soldiers to commit war crimes that were punished in U.S. courts martial, and the torture and war crimes occurred at a time when the United States exercised total jurisdiction and control over Abu Ghraib prison. The Supreme Court held in *Kiobel* that the presumption could be displaced in cases that touch and concern the United States with sufficient force.

Briefing on motion to dismiss common law claims

Briefing on motion to dismiss common law claims

CACI files a motion to dismiss CCR's common law claims on April 29, 2013. CCR files our opposition on May 6, 2013. CACI files its reply on May 8, 2013.

Briefing on reconsideration of Alien Tort Statute claims post-[Kiobel](#)

Briefing on reconsideration of Alien Tort Statute claims post-[Kiobel](#)

CACI files a motion to dismiss CCR's ATS claims of war crimes, torture, and cruel, inhuman, and degrading treatment on the basis of the Supreme Court's recent decision in [Kiobel v. Royal Dutch Petroleum](#) on April 24, 2013. CCR files our opposition on May 3, 2013, and CACI files its reply on May 8, 2013.

Briefing on motion to dismiss conspiracy claims

Briefing on motion to dismiss conspiracy claims

CACI files its motion to dismiss the conspiracy claims on April 15, 2013. CCR files our opposition on May 3, 2013. CACI files its reply on May 8, 2013.

Briefing and argument regarding CACI's attempt to dismiss Baghdad plaintiffs as sanction for their inability to appear in U.S. for depositions

Briefing and argument regarding CACI's attempt to dismiss Baghdad plaintiffs as sanction for their inability to appear in U.S. for depositions

The court hears CACI's motion to dismiss the three Baghdad-based plaintiffs on the grounds that they are unable to appear in the U.S. for their depositions. The men had been granted visas to travel to the U.S. in February, but were prevented for unknown reasons from boarding their flight to the U.S. in March. CACI files its motion on April 5, 2013. The court hears argument at a motion hearing on April 12, 2013. CCR files our opposition on May 6, 2013. CACI files a supplemental memo in support of the motion for sanctions on May 22, 2013, and CCR files our opposition on May 24, 2013. The motion remains pending when Judge Lee issues his June 26, 2013 decision, and as CACI did not seek plaintiffs' depositions when discovery reopened in 2014, the issue is moot.

CCR files third amended complaint

CCR files third amended complaint

Judge Lee vacates 2008 order denying partial summary judgment (statute of limitations)

Judge Lee vacates 2008 order denying partial summary judgment (statute of limitations)

On March 19, 2013, Judge Lee grants CACI's motion for reconsideration of the 2008 order denying partial summary judgment, vacating the 2008 order and dismissing three of CCR's common law claims in the second amended complaint without prejudice.

CACI compels plaintiff depositions

CACI compels plaintiff depositions

CACI files a motion to compel plaintiff depositions on February 8, 2013. CCR files our opposition on February 13, 2013. Following a motion hearing, the court grants CACI's motion to compel on February 14, 2013, requiring the plaintiffs to appear for depositions within thirty days.

CCR discloses expert reports

CCR discloses expert reports

CCR discloses expert reports on issues including what acts constitute torture; the duty of care owed to detainees under international humanitarian law; the significance of the physical, mental and emotional injuries alleged from the perspective of Islamic religious and legal teachings; and theories of social-psychological behavior in a prison setting such as Abu Ghraib.

Briefing and decision on dismissing defendant CACI International and dismissing the conspiracy claims

Briefing and decision on dismissing defendant CACI International and dismissing the conspiracy claims

Defendants CACI Premier Technology and CACI International file motions to dismiss the conspiracy claims in the plaintiffs' second amended complaint, as well as defendant CACI International, on January 14, 2013. Plaintiffs file their opposition to the motions on January 28 and 29, 2013, respectively. Judge Lee grants the defendants' motion to dismiss CACI International, Inc. and grants without prejudice CACI Premier Technology's motion to dismiss conspiracy claims on March 8, 2013.

Plaintiffs file second amended complaint

Plaintiffs file second amended complaint

Plaintiffs file their second amended complaint.

Briefing and hearing on defendants motion for reconsideration of district court's 2008 order denying partial summary judgment (statute of limitations)

Briefing and hearing on defendants motion for reconsideration of district court's 2008 order denying partial summary judgment (statute of limitations)

Defendants file a motion for reconsideration of the court's order denying partial summary judgment based on statute of limitations on November 9, 2012. Plaintiffs file their opposition on November 20, 2012. Defendants file their reply on November 26, 2012. A hearing is held before Judge Lee on November 30, 2012. Defendants file a memorandum regarding choice of law for the statute of limitations on January 17, 2013, to which plaintiffs file their opposition on January 31, and defendants file their reply on February 6, 2013.

Judge Lee reinstates Alien Tort Statute claims

Judge Lee reinstates Alien Tort Statute claims

At the conclusion of the motion hearing, Judge Lee reinstates all ATS claims of war crimes, torture and cruel, inhuman and degrading treatment.

Plaintiffs seek reinstatement of Alien Tort Statute claims

Plaintiffs seek reinstatement of Alien Tort Statute claims

Plaintiffs file a motion for reinstatement of the ATS claims on October 11, 2012, arguing that war crimes, torture and cruel, inhuman and degrading treatment are all universally recognized violations of international law, and that corporations can be held liable under the ATS. Defendants file their opposition to the motion on October 25, 2012, and plaintiffs file their reply on October 30, 2012.

En banc panel dismisses CACI's appeal and remands case to district court

En banc panel dismisses CACI's appeal and remands case to district court

The *en banc* panel, in an 11-3 decision, issues an order dismissing the appeal for lack of jurisdiction and remanding the case to the district court, in order to allow fact-finding to proceed.

Rehearing *en banc* briefing and argument

Rehearing *en banc* briefing and argument

On November 15, 2011, the Fourth Circuit invites the United States to file an amicus brief in the case before December 30, 2011. CACI files its *en banc* opening brief on November 29, 2011. Plaintiffs file their opposition brief on December 19, 2011, arguing first that the Court of Appeals lacks jurisdiction under the collateral order doctrine, and then that there is no law of war immunity for torture, that CACI is not entitled to derivative absolute immunity, that state law cannot be wholly displaced through preemption or battlefield immunity, and that the political question doctrine does not bar the action. On December 20, 2011, retired Army military officers, professors of Civil Procedure and Federal Courts, and international human rights organizations and experts file amicus briefs in support of the plaintiffs on jurisdiction and preemption issues. CACI files its reply brief on December 27, 2011. The U.S. files its amicus brief on January 14, 2012, in which it agrees with the plaintiffs argument that the Court of Appeals lacks jurisdiction, and submits that the district court should reconsider the preemption argument under the combatant activities exception and that, *inter alia*, there should be no preemption for acts of torture. CACI files its response to the U.S. amicus on January 20, 2012 and plaintiffs respond on January 24, 2012. The Fourth Circuit, sitting *en banc*, hears argument on January 27, 2012.

District court denies CACI's motion for 1292(b) certification of 2009 order denying its motion to dismiss

District court denies CACI's motion for 1292(b) certification of 2009 order denying its motion to dismiss

In November 2011, just as briefing is beginning for the *en banc* rehearing in the Fourth Circuit, CACI files a motion for 1292(b) certification of the district court's 2009 order denying its motion to dismiss. Plaintiffs file their opposition to the motion on November 16, 2011, and CACI files its reply on the same date. The district court denies the motion on November 22, 2011, affirming the plaintiffs' argument that it does not have jurisdiction over the case, as it is currently before the Fourth Circuit Court of Appeals.

Fourth Circuit grants plaintiffs' petition for rehearing *en banc*

Fourth Circuit grants plaintiffs' petition for rehearing *en banc*

Plaintiffs file a petition for rehearing *en banc* on October 5, 2011. On October 6, 2011, the Fourth Circuit requests that the defendants respond, and the defendants file their response on October 17, 2011. A majority of Fourth Circuit judges in active service and not disqualified grant the petition for rehearing *en banc*.

In 2-1 decision, Fourth Circuit reverses district court and orders case be dismissed

In 2-1 decision, Fourth Circuit reverses district court and orders case be dismissed

In a 2-1 decision, a panel of the Fourth Circuit reverses the district court and orders the case be dismissed. Judges Paul V. Niemeyer and Dennis W. Shedd find the court has jurisdiction, and dismiss the case under a theory of battlefield preemption. Judge Robert B. King dissents, finding that the court lacks jurisdiction over the appeal, and that the state law claims cannot be preempted.

Court issues stay pending Supreme Court decision regarding cert petition filed in [Saleh v. Titan](#)

Court issues stay pending Supreme Court decision regarding cert petition filed in [Saleh v. Titan](#)

The Fourth Circuit orders that the case be held in abeyance pending decision on the petition for certiorari filed in [Saleh v. Titan](#) with the Supreme Court.

Appellate briefing and argument

Appellate briefing and argument

Defendants file their opening brief in the Fourth Circuit Court of Appeals on April 5, 2010. In May 2010, private military contractor KBR is granted leave to file an amicus brief. Plaintiffs file their response on June 14, 2010. Defendants file their reply on July 1, 2010. Judges Paul Niemeyer, Dennis W. Shedd and Robert B. King of the Fourth Circuit hear argument on October 26, 2010.

CACI files notice of appeal with Fourth Circuit Court of Appeals; plaintiffs seek to have appeal dismissed and file cross-appeal; briefing schedule set

CACI files notice of appeal with Fourth Circuit Court of Appeals; plaintiffs seek to have appeal dismissed and file cross-appeal; briefing schedule set

Defendants file a notice of appeal to the Court of Appeals for the Fourth Circuit on March 23, 2009. Plaintiffs file a motion to dismiss CACI's appeal on April 28, 2009. The court suspends briefing pending resolution of the motion to dismiss on April 30, 2009. The court defers a ruling on the motion to dismiss pending assignment to a panel for review on the merits on November 16, 2009, and issues a briefing order. Plaintiffs file their notice of cross-appeal on November 30, 2009. The court issues a revised appellate briefing schedule, a briefing order on the cross-appeal, and an order consolidating the cases on December 2, 2009. CACI files a motion to dismiss the plaintiffs' cross-appeal on December 7, 2009. On February 23, 2010, the court grants CACI's motion to dismiss the plaintiffs' cross-appeal and issues a revised scheduling order.

District court denies defendants' motion to dismiss, in part

District court denies defendants' motion to dismiss, in part

Judge Lee denies the defendants' motion to dismiss, in part. In denying the motion to dismiss, Judge Lee rejects CACI's argument that the

case presents a nonjusticiable political question; that government contractor interrogators are entitled to derivative absolute immunity; that the claims are preempted through a government contractor defense claimed under the combatant activities exception to the Federal Tort Claims Act; and that the claims of respondent superior and conspiracy liability are properly pled. Judge Lee grants CACIs motion in regard to the Alien Tort Statute (ATS), finding the ATS does not provide a sufficient basis to exercise jurisdiction for war crimes, torture and cruel, inhuman and degrading treatment against government contractor civilian interrogators.

Order grants plaintiffs' motion for leave to rebut defendants' factual misrepresentations on motion to dismiss

Order grants plaintiffs' motion for leave to rebut defendants' factual misrepresentations on motion to dismiss

Briefing and order regarding the Senate Armed Services Committee Report as supplemental authority

Briefing and order regarding the Senate Armed Services Committee Report as supplemental authority

Defendants file a motion for leave to file a supplemental memorandum based on the Senate Armed Services Committee Report in support of their motion to dismiss on December 19, 2008. Plaintiffs file their response on January 2, 2009 and defendants file their reply on January 8, 2009. Judge Lee issues an order granting defendants' motion on January 14, 2009.

Judge Lee denies defendants motion for partial summary judgment based on statute of limitations

Judge Lee denies defendants motion for partial summary judgment based on statute of limitations

Defendants file a motion to dismiss the amended complaint on October 2, 2008. Plaintiffs file their opposition on October 16, 2008. Defendants file their reply on October 22, 2008. A hearing is held before District Court Judge Gerald Bruce Lee on October 24, 2008. Plaintiffs file a motion for leave to file a memorandum rebutting CACIs factual misrepresentations on October 27, 2008, to which the defendants respond on October 29, 2008. Plaintiffs file their reply on November 3, 2008.

Briefing on motion for partial summary judgment based on statute of limitations

Briefing on motion for partial summary judgment based on statute of limitations

Defendants file a motion for partial summary judgment based on the statute of limitations on October 10, 2008. Plaintiffs file their opposition on October 21, 2008. The defendants file their reply on October 27, 2008.

Plaintiffs file amended complaint

Plaintiffs file amended complaint

Plaintiffs file an amended complaint against CACI International, Inc. and CACI Premier Technology, Inc.

CCR moves to dismiss claims against L-3 Services and Timothy Dugan

CCR moves to dismiss claims against L-3 Services and Timothy Dugan

CCR moves to dismiss claims against L-3 Services and Timothy Dugan on August 20, 2008, and the claims are dismissed without prejudice on September 12, 2008.

Case transferred to Eastern District of Virginia

Case transferred to Eastern District of Virginia

The court grants defendants' motion to change venue. The case is transferred to the Eastern District of Virginia and assigned to Judge Gerald Bruce Lee.

CCR files complaint on behalf of four Iraqi torture victims

CCR files complaint on behalf of four Iraqi torture victims

CCR files a complaint on behalf of Suhail Najim Abdullah Al Shimari, Taha Yaseen Arraq Rashid, Salah Hasan Nusaif Al-Ejaili, and Asa'ad Hamza Hanfoosh Zuba'e against Timothy Dugan, CACI International, Inc., CACI Premier Technology, Inc., and L-3 Services, Inc. in the U.S. District Court for Ohio, Southern District, Eastern Division.

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