

Center for Constitutional Rights

Discrimination, Detention, and Deportation: Immigration & Refugees

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

Policy Issue Resources

In 2022, the parties settled all claims, bringing plaintiffs' 20-year struggle for justice to an end.

Covington & Burling LLP, Michael Winger, Alexander A. Reinert

Ibrahim Turkmen, Akil Sachveda, [Anser Mehmood](#), [Benamar Benatta](#), Ahmed Khalifa, Saeed Hammouda, [Purna Bajracharya](#), [Ahmer Abbasi](#)

Turkmen v. Ashcroft (while being heard by the U.S. Supreme Court the case caption briefly changed to *Ziglar v. Abbasi*) was a civil rights lawsuit filed in 2002 on behalf of a class of Muslim, South Asian, and Arab non-citizens swept up by the INS and FBI in connection with the 9/11 investigation. Based solely on their race, religion, ethnicity, and immigration status, hundreds of men were detained as terrorism suspects and held in brutal detention conditions for the many months it took the FBI and CIA to clear them of any connection to terrorism. They were then deported.

The case sought to hold accountable high-level Bush administration officials, including former Attorney General John Ashcroft and former FBI Director Robert Mueller, for their role in ordering racial and religious profiling and abuse in detention, in violation of the detainees rights under the First, Fourth, and Fifth Amendments. Our clients were held in a specially-created Administrative Maximum Special Housing Unit (ADMAX SHU), in solitary confinement. They were purposefully deprived of sleep, denied contact with the outside world, beaten and verbally abused, and denied the ability to practice their religion. The former wardens and other Metropolitan Detention Center officials who oversaw this abuse were also named in the case.

Turkmen sought compensatory and punitive damages for our clients and fit into the Center for Constitutional Rights' larger fight for immigrant rights and government accountability, and against illegal detentions and prisoner abuse.

Ten groups file amicus briefs in support of *Abbasi*, including law professors, immigration organizations, and descendants of Fred Korematsu, who challenged Japanese internment during World War II.

Second Circuit denies government's petition for rehearing *en banc*

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CCR responds to defendants petitions for rehearing *en banc*

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After being ordered to respond by the Second Circuit, CCR files a brief explaining why the Second Circuits landmark June 17 ruling was correct and does not require reconsideration by the entire circuit court.

Defendants seek rehearing *en banc*

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Second Circuit rules in CCRs favor, reinstates claims against high-level officials

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The court reinstates claims against former Attorney General John Ashcroft, former FBI director Robert Mueller, and former INS Commissioner James Ziglar for their roles in the post-9/11 immigration detentions, abuse, and religious profiling of Muslim, Arab, and South Asian men. It is exceedingly rare for a court to allow claims against such high-level officials to proceed.

The judge allowed the 9/11 detainees claims to proceed against the MDC supervisors and staff members who were directly responsible for the harsh conditions of confinement and abuse. However, the judge dismissed our claims against the high-level officials, including former Attorney General John Ashcroft.

CCR argues the suit meets the standards for holding federal officials accountable for civil rights violations articulated in the 2009 Supreme Court case *Ashcroft v. Iqbal*, a case also involving mistreatment of post-9/11 detainees. In that case the high court ruled that the plaintiffs pleadings were not specific enough to bring an equal protection claim against high-level government officials.

The complaint adds as potential class representatives six new plaintiffs: Ahmer Iqbal Abbasi, Anser Mehmood, Benamar Benatta, Ahmed Khalifa, Saeed Hammouda, and Purna Raj Bajracharya. It also adds new detail about the involvement of the high-level defendants, including former attorney general John Ashcroft, in the conditions and abuse.

Second Circuit issues opinion affirming district court's dismissal of our claims regarding prolonged detention

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The court vacates the balance of the district court's decision regarding abusive conditions of confinement and remands the case to the district court to consider CCR's motion to amend the complaint and to apply the new pleading standard created in *Iqbal v. Ashcroft*

CCR announces that the five MDC plaintiffs have settled their claims against the United States for \$1.26 million. At the same time, CCR seeks permission from the district court to amend the complaint to add five new plaintiffs.

Turkmen parties file supplemental briefs regarding Supreme Court's decision in *Iqbal*

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The parties brief the impact of the *Iqbal* decision on their pending cross-appeal in the Second Circuit.

Supreme Court rules in *Iqbal v. Ashcroft*

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In a 5-4 decision, the Supreme Court holds that *Iqbal* had not included enough facts in his complaint to plausibly allege that former Attorney General Ashcroft and FBI Director Robert Mueller had a role in his discriminatory confinement and abuse. This decision has far-reaching implications for pleading standards.

Turkmen plaintiffs file amicus brief in Supreme Court in support of plaintiffs in *Iqbal v. Ashcroft*

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Iqbal v. Ashcroft is a companion case to *Turkmen* brought on behalf of one non-citizen rounded up after 9/11, held on criminal charges, and abused in the same facility as many of the *Turkmen* plaintiffs. After the Supreme Court grants cert in *Iqbal v. Ashcroft*, the *Turkmen* plaintiffs file an amicus brief urging the Court to deny attempts by the high-level officials to avoid accountability. That brief provides the Supreme Court with never-before released documents gleaned through discovery, showing the involvement by former-Attorney General Ashcroft and FBI Director Mueller in the post-9/11 sweeps.

Three amicus briefs are filed, by Karen Korematsu, immigration law professors, and former wardens.

The government appeals the denial of their motions to dismiss. CCR files a cross appeal of the Judge's decision.

After several years, Judge Gleeson decides the pending motions to dismiss. The judge dismisses the claims challenging our clients' prolonged pretextual detention but allows the conditions of confinement and racial and religious discrimination claims to proceed. CCR seeks and receives permission from the court to appeal the partial dismissal immediately.

Magistrate Judge Gold orders all defendants, witnesses, and government attorneys involved in the case to admit or deny whether they are "aware of any monitoring or surveillance of communications" between CCR attorneys and their clients.

The United States objects to Magistrate Judge Gold's order before the District Court.

Parties brief the surveillance issue before Judge Gleeson. On October 3, 2006, Judge Gleeson upholds Judge Gold's order regarding surveillance. Judge Gleeson gives the United States a limited period of time to provide the court with an *in camera* assurance that no intercepted communications are being used in the case.

In response to revelations about the Bush administration's warrantless domestic spying program, CCR demands to know whether communications between CCR and the *Turkmen* plaintiffs are being intercepted and revealed to government attorneys or defendants. The United States government vigorously fights to avoid stating whether or not it has access to surveillance of CCR attorneys in the case.

Four *Turkmen* plaintiffs are paroled into U.S. to have their depositions taken

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Non-citizens barred from re-entering the United States have never before been allowed to enter the country for the purpose of pursuing a civil case. The United States only allows their return on the condition that the plaintiffs remain in the custody of the United States Marshall Service for the entirety of their stay. They are not permitted to leave their hotel, nor contact their families or friends at home or in the United States. The plaintiffs accept these onerous conditions in order to better present their testimony.

Judge Gleeson denies the MDC wardens' motions to dismiss the third amended complaint. Motions by the higher-level defendants remain pending.

Despite the pending motions to dismiss, Judge Gleeson allows CCR to begin discovery against the United States and MDC defendants on their excessive force and conditions of confinement claims and Magistrate Judge Pollack issues a discovery schedule.

CCR fights to get discovery into the names of the officers described in the second OIG report, and uses this to write a third amended

complaint, which names as defendants 28 MDC employees, included wardens, lieutenants, correctional officers, and counselors. The new complaint also adds an eighth plaintiff and several Federal Tort Claims Act claims against the United States. The parties engage in extended briefing over the defendants' motion to dismiss the Third Amended Complaint on qualified immunity grounds, as well as for lack of standing and jurisdiction. Defendants also challenge CCR's international law claims.

Elmaghraby plaintiffs intervene in case

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Two 9/11 detainees, Ehab Elmaghraby and Javaid Iqbal, who had brought their own challenge to the detention at MDC, are granted leave to intervene in *Turkmen*. Subsequent to this order, *Elmaghraby* and *Turkmen* are consolidated for discovery purposes. The *Elmaghraby* case later becomes *Iqbal v. Ashcroft*.

CCR seeks and receives permission to file a second amended complaint adding several new claims based on information made available by the OIG report. The government files a supplemental motion to dismiss the new claims. We oppose, and a second round of briefing is completed in July 2003.

The first Department of Justice Office of Inspector General (OIG) report is released, describing the government's secret round-up of more than 700 Muslim and Arab non-citizens after 9/11 on the pretext of immigration violations. It describes the government's application of a blanket policy of denying them release on bond, even when the government lacked evidence that they posed a danger or a flight risk, and of the blanket policy of continuing to hold them for criminal investigatory purposes even after they could have been deported.

Briefing on defendant's motion is completed in late 2002 and CCR Legal Director Bill Goodman argues the motion before Judge Gleeson on December 19, 2002.

Turkmen is first filed on behalf of three named plaintiffs, Ibrahim Turkmen, Asif-Ur-Rehman Saffi, and Syed Amjad Ali Jaffri, while hundreds of 9/11 detainees remain in custody. An amended complaint is filed on July 27, 2002, adding four additional plaintiffs and several new claims.

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