

Center for Constitutional Rights

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

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Public Facing Advocacy Writing

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Accountability for Racial, Religious Profiling Urgent in Face of Trump Presidency, Attorneys Say

January 18, 2017, Washington, D.C. Today, in the last case heard during the Obama administration, the Center for Constitutional Rights (CCR) urged the United States Supreme Court to affirm an appellate court ruling that high-level Bush administration officials may be sued for their roles in the post-9/11 profiling and abuse of Muslim, Arab, and South Asian men. The Bush officials argued that high-level government officials who implement and create clearly unconstitutional policies on national security should be shielded from liability. The Center says it is critically important for the courts to assert their role as a check on executive abuse of power in the face of President-elect Trump's promises to implement unlawful policies such as a Muslim registry and a return to torture.

If a case like this cannot be brought because of national security, then government officials are free to do whatever they wish in the name of national security, no matter how outlandish or illegal, said Center for Constitutional Rights Senior Staff Attorney [Rachel Meeropol](#), who argued the case today. Nothing is more critical at this moment than reaffirming the fundamental American notion that government officials are not above the law.

[Ziglar v. Abbasi](#) (formerly *Turkmen v. Ashcroft*) was filed against former Attorney General John Ashcroft, FBI director Robert Mueller, and Immigration and Naturalization Service Commissioner James Ziglar for the post-9/11 round-ups, detention, and abuse of hundreds of non-citizens based solely on their race, religion, ethnicity, and immigration status. The men were arrested based on citizen tips reporting activity such as Arabs working long hours, or Middle Eastern men renting post office boxes. Despite the clearly discriminatory nature of such tips, and though the Bush officials knew there was no reason beyond the men's religion and ethnicity to suspect them of ties to terrorism, Mueller ordered that each be thoroughly investigated, and Ashcroft ordered that everyone who fit the profile be held as a suspected terrorist until cleared by the FBI.

Many of the men were held in a specially-created maximum security housing unit for months, held in solitary confinement and prohibited from any contact with the outside world, beaten, deprived of sleep, and denied the ability to practice their religion. Upon arrival at the detention facility in downtown Brooklyn, many of the detainees had their faces smashed into a t-shirt pinned to a wall with a picture of the American flag and the words These colors don't run and were told, Welcome to America. The blood-smeared shirt hung on the prison wall for months. Ultimately, the men were charged with civil immigration violations, such as overstaying a visa or working without authorization, cleared of any connection to terrorism, and deported.

This lawsuit is so important if the Supreme Court allows it to go forward it will set a great example for others to get justice as well, said CCR client [Ahmer Abbasi](#) who now lives in Pakistan with his wife and children. The place where we were kept in solitary and beaten and abused for so many months was no less than a grave. It is not only the guards and wardens who are responsible, it is the men like Ashcroft, Ziglar, and Mueller who ordered and oversaw the policy that put us there. After 15 years, I hope the Court will not shut the door to justice for us.

In its detailed, 109-page ruling, the Second Circuit Court of Appeals explained:

If there is one guiding principle to our nation it is the rule of law. It protects the unpopular view, it restrains fear-based responses in times of trouble, and it sanctifies individual liberty regardless of wealth, faith, or color. The Constitution defines the limits of the Defendants' authority; detaining individuals as if they were terrorists, in the most restrictive conditions of confinement available, simply because these individuals were, or appeared to be, Arab or Muslim exceeds those limits. It might well be that national security concerns motivated the Defendants to take action, but that is of little solace to those who felt the brunt of that decision. The suffering endured by those who were imprisoned merely because they were caught up in the hysteria of the days immediately following 9/11 is not without a remedy.

[Ziglar v. Abbasi](#) (formerly *Turkmen v. Ashcroft*) was first filed by the Center for Constitutional Rights in April 2002 and has been working its way through the courts ever since. It was brought pursuant to the 1971 case *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, in which the Supreme Court first allowed individuals to sue federal officials for money damages for constitutional violations. Although federal prisoners frequently use this precedent to sue for violations of their rights while in federal prison, Bush-era officials are now arguing that an exception should be made for non-citizens swept up in the name of national security.

Former wardens and other officials at the Metropolitan Detention Center in New York City who oversaw the abuse are also defendants in

the case.

For more information, visit [CCRs case page](#).

The *Abbasi* plaintiffs are represented by the Center for Constitutional Rights, cooperating attorneys Michael Winger and Alexander A. Reinert, and Covington & Burling, LLP.

The Center for Constitutional Rights works with communities under threat to fight for justice and liberation through litigation, advocacy, and strategic communications. Since 1966, the Center for Constitutional Rights has taken on oppressive systems of power, including structural racism, gender oppression, economic inequity, and governmental overreach. Learn more at ccrjustice.org.

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