

Legal Immunity of George W. Bush in the “Commission” of War Crimes in Iraq: California 9th Circuit Opinion Released

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The Ninth Circuit has affirmed the immunity given to high-ranking Bush-era officials in Saleh v. Bush, and has dismissed Ms. Saleh’s claims of aggression against George W. Bush and others for their alleged planning and commission of the crime of aggression against Iraq.

The Ninth Circuit held that the Westfall Act, a federal law that provides domestic immunity to government officials who commit alleged wrongdoing, is broad enough to cover acts that would amount to aggression under international law.

According to the Ninth Circuit, a plaintiff seeking to hold high-ranking officials liable for illegal acts under international law must allege something akin to a financial interest in order to litigate against domestic officials. The Ninth Circuit provided the following hypothetical:

A federal official would act out of “personal” motives and not be “actuated . . . by a purpose to serve the master” if, for instance, he used the leverage of his office to benefit a spouse’s business, paying no heed to the resulting damage to the public welfare.

The Ninth Circuit also dismissed arguments that the Nuremberg Judgment’s prohibition on domestic immunity to government officials who engage in aggression was binding as a matter of domestic, U.S. law.

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Ninth Circuit Opinion

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