

In Historic Ruling, Bush Officials Can Be Sued for Post-9/11 Roundups

By [Sarah Lazare](#)

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A historic ruling on Wednesday may allow post-9/11 torture victims in the U.S. to seek damages from high-level Bush administration officials. (Photo: [Simone Ramella](#)/flickr/cc)

Victims of post-9/11 racial profiling, illegal detention, and abuse in the U.S. may have the chance to sue high-level Bush administration officials, including former Attorney General John Ashcroft, a U.S. federal court [ruled](#) on Wednesday in what the Center for Constitutional Rights (CCR) called an “exceedingly rare” decision.

The Second Circuit Court of Appeals on Wednesday found that Ashcroft, former FBI director Robert Mueller, and former Immigration and Naturalization Service (INS) Commissioner James Ziglar, who are all defendants in the case of *Turkmen v. Ashcroft*, “exceeded the bounds of the [U.S.] Constitution in the wake of 9/11” by profiling, detaining, abusing, and deporting numerous Arab, Muslim, and South Asian men based on nothing more than their race or religion.

“[T]here is no legitimate governmental purpose in holding someone as if he were a terrorist simply because he happens to be, or appears to be, Arab or Muslim,” the three-judge panel wrote in its [decision](#) (pdf). “[W]e simply cannot conclude at this stage that concern for the safety of our nation justified the violation of the constitutional rights on which this nation was built.”

CCR, which brought the case in 2002, said the ruling was historic and served as a reminder that “the rule of law and the rights of human beings, whether citizens or not, must not be sacrificed in the face of national security hysteria.”

The eight plaintiffs, along with hundreds of other men who were arrested following the September 11, 2001 terror attacks, were held as “[suspected terrorists](#)” and placed in solitary confinement at the Metropolitan Detention Center in Brooklyn for months on end, despite their only charges being civil immigration violations such as overstaying a visa or working without authorization. While in custody, the men were abused by guards, including through sleep deprivation, beatings, denial of religious rights, and by having “their faces smashed into a wall where guards had pinned a t-shirt with a picture of an American flag and the words, ‘These colors don’t run.’” They were then deported.

“Holding individuals in solitary confinement 23 hours a day with regular strip-searches because their perceived faith or race placed them in the group targeted for recruitment by Al Qaeda violated the detainees’ constitutional rights,” Judges Rosemary S. Pooler and Richard C. Wesley wrote in their decision.

Following the ruling, CCR senior staff attorney Rachel Meeropol said, "Punishing low-level perpetrators is necessary, but hardly sufficient to prevent future abuse. Orders came from officials at the highest levels of government. Now we have the chance to ensure that they are held accountable and not treated as if they are above the law."

Pooler and Wesley concluded their 109-page decision with what CCR called an "unusual" section, named "Final Thoughts." The section reads:

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.

One of the plaintiffs, Benamar Benatta, said he was "very delighted" by Wednesday's ruling.

"It has been a long and stressful process that has taken a tremendous toll on my life, however, it is this kind of bold decision that restores my faith in the U.S. judicial system and gives me hope that justice will be served at the end," Benatta continued. "It is time for those officials at the highest levels of government to stop hiding behind excuses and answer for their arbitrary and discriminatory decisions that affected, and in some cases ruined, innocent people's lives."

The Justice Department [said](#) it was reviewing the court's decision. As CCR pointed out on Wednesday, it is rare for claims against high-level government officials to proceed.

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