

British Guantanamo victims sue Rumsfeld for authorising torture

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Four Britons who were held in Guantanamo Bay are suing top officials in the Bush administration, including Donald Rumsfeld, for authorising their torture at the US military base.

On October 27, 2004, a leading commercial litigation firm, Baach Robinson & Lewis, which is working with the Center for Constitutional Rights, brought a suit on behalf of the four.

Shafiq Rasul, Asif Iqbal, Rhuhel Ahmed—known as the Tipton Three—and Jamal al-Harith from Manchester are suing the US Secretary of Defence and other senior officers responsible for the treatment of detainees at Guantanamo—for authorising and condoning torture and other mistreatment in violation of the Alien Tort Statute, the US Constitution, the Geneva Conventions and the Religious Freedom Restoration Act.

The lawsuit seeks compensation of \$10 million for each of the plaintiffs.

In late 2001, the Tipton Three were taken prisoner in Afghanistan by the Northern Alliance and handed over to American forces. Jamal al-Harith was abducted by Afghans in Pakistan, and then handed over to the Taliban who accused him of being a British Special Forces military spy. When the Taliban government fell, al-Harith was told that he was free to leave. But despite being in contact with officials of the International Committee of the Red Cross (ICRC) and discussing with British Embassy officials in Kabul for almost one month about how to leave the country, he was imprisoned by US forces and taken to Kandahar airbase.

All four were later transported to the Guantanamo Bay prison camp in Cuba, where they were held for more than two years by the US military as enemy combatants, even though they were never involved in any military or terrorist activity or conspired with any

terrorist organisation. They never had any combat training by any forces and did not carry arms, and there were no good reasons for American forces to believe otherwise. They were released without charge in March 2004 and returned to the United Kingdom.

After their return home, the Tipton Three released a 115-page document in which they described their ordeal in great detail. [See <http://www.ccr-ny.org/v2/reports/docs/Gitmo-compositestatementFINAL23july04.pdf>.]

Rasul was also the lead plaintiff in the Supreme Court case *Rasul v. Bush*—which was brought by the Center for Constitutional Rights—in which the Court ruled that those held on Guantanamo had a right to judicial review of their detentions.

The lawsuit against Rumsfeld sets out in great detail the mistreatment and torture experienced by the defendants whilst in American custody, both in Afghanistan and Cuba.

It states that they were struck with rifle butts, punched, kicked and slapped, “short shackled” in painful “stress positions” and threatened with unmuzzled dogs. They were also forced to strip naked, subjected to repeated forced body cavity searches, made to endure extremes of heat and cold for the purpose of causing suffering, kept in filthy cages for 24-hours a day with no exercise or sanitation, denied access to necessary medical care, harassed in practicing their religion, and deprived of adequate food, sleep, and communication with family and friends, as well as denied information about their status.

The law suit charges that these practices involved not simply the actions of those individuals directly involved in meting them out, but “was the result of deliberate and foreseeable action taken by Defendant

Rumsfeld” and other current and former officials responsible for Guantanamo, such as Air Force General Richard Myers, Army Major General Geoffrey Miller and Army Major General Michael E. Dunleavy, “to flout or evade the United States Constitution, federal statutory law, United States treaty obligations and long established norms of customary international law. This action was taken in a misconceived and illegal attempt to utilise torture and other cruel, inhuman, or degrading acts to coerce nonexistent information regarding terrorism.”

In a memorandum signed by Rumsfeld in December 2002, many of the interrogation techniques such as using dogs to threaten detainees, hooding, stripping detainees naked and putting them in stress positions, shaving detainees’ heads and beards, interrogations of up to 20 hours, total isolation and “mild, non-injurious physical contact” were specifically approved.

According to the complaint, in March 2003, Rumsfeld commissioned a “Working Group Report” to address “Detainee Interrogations in the Global War on Terrorism: Assessment of Legal, Historical, Policy and Operational Considerations.” This report details the requirements of international and domestic law governing interrogations, including the Geneva Conventions. It attempts to address “legal doctrines under the Federal Criminal Law that could render specific conduct, otherwise criminal not unlawful.”

In the March 2003 report, some of the illegal interrogation techniques were rescinded and others subjected to permission by senior officers, proving that the practices used against the Guantanamo detainees were taken with a high degree of consciousness.

The lawsuit states: “Defendants well knew that their activities resulting in the detention, torture and other mistreatment of Plaintiffs were illegal and violated clearly established law—i.e. the Constitution, federal statutory law and treaty obligations of the United States and customary international law. Defendants’ after-the-fact attempt to create an Orwellian legal façade makes clear their conscious awareness that they were acting illegally. Therefore they cannot claim immunity from civil liability.”

Both the memorandum and the report were originally designated by Rumsfeld to be classified for 10 years, but were made public by President George W. Bush after photographs of the sadistic torture of inmates at

Abu Ghraib prison in Iraq became public, in an attempt to distance himself from the scandal.

The full legal complaint can be downloaded from the following address:
http://www.ccrny.org/v2/legal/september_11th/docs/Rasul_v._RumsfeldComplaint_October_26octfinal.pdf



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