

Federal judge allows lawsuit to proceed against CIA contractors involved in torture

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On Friday, a US federal district judge denied a motion to dismiss a case brought against two psychologists who collaborated with the CIA in the course of its international torture program. The case, brought by the American Civil Liberties Union, represents the first time a lawsuit in US courts based on the torture program was allowed to proceed past the initial stages.

The lawsuit was brought on behalf of three torture victims, only two of whom survived. The plaintiffs are Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud, and the family of Gul Rahman.

Gul Rahman was tortured to death at the infamous “Salt Pit” CIA black site in Afghanistan. According to the Senate Intelligence Committee report on the CIA torture program published in December 2014, Rahman’s body was found chained and naked on a cold concrete floor, covered in bruises. He was abducted while he was traveling to Islamabad to receive medical treatment, in a likely case of mistaken identity.

According to the report, Rahman was “shackled to the wall of his cell in a position that required the detainee to rest on the bare concrete floor.” The warden “had ordered that Rahman’s clothing be removed when he had been judged to be uncooperative during an earlier interrogation.” Rahman left behind a wife and four daughters.

Suleiman Abdullah Salim, a fisherman from Zanzibar, Tanzania, was by all accounts innocent of any wrongdoing or involvement in international terrorism. According to his attorneys, he has been “destroyed” physically and psychologically by prolonged torture. Mohamed Ahmed Ben Soud was a refugee from Libya who was abducted in Pakistan. The US government never charged any of the three men with a crime.

The lawsuit targets clinical psychologists James Elmer Mitchell and John “Bruce” Jessen, who were hired by the CIA to design the torture program. These two

psychologists based the CIA program on torture experiments on dogs, which used a prolonged regime of unavoidable electric shocks to produce “learned helplessness.” The psychologists proposed to test their pseudo-scientific theory on humans to see if it could cause individuals to “break” and cooperate with interrogators, even though neither of them had any experience with interrogation. Nor did either of them have any expertise in counterterrorism, requisite cultural or linguistic expertise, or knowledge of Al Qaeda.

The psychologists were paid \$81 million by the CIA for their role in overseeing the program. The ACLU has described the psychologists’ theories as “junk science,” since individuals who are tortured will generally say anything to get the torture to stop. A video report concerning the case by *The Guardian* is available here.

According to the ACLU, the torture methods devised by the two psychologists include “slamming [prisoners] into walls, stuffing them inside coffin-like boxes, exposing them to extreme temperatures and ear-splitting levels of music, starving them, inflicting various kinds of water torture, depriving them of sleep for days, and chaining them in stress positions designed for pain and to keep them awake for days on end.”

The lawsuit correctly labels these two psychologists as war criminals who participated in war crimes, and also accurately describes them as participating in an international criminal conspiracy. Further, as medical professionals, Mitchell and Jessen are accused of participating in illegal human experimentation. Involuntary experimentation on human beings is forbidden by the Nuremberg Code, which was promulgated in the aftermath of the gruesome practices that were performed at the Nazi concentration camps.

Because they were independent contractors, many of the authoritarian immunities and privileges otherwise available to government agents in US courts are arguably

inapplicable. Indeed, the evidence against the two psychologists is so overwhelming that the federal judge despaired of any plausible rationale for dismissing the case.

“I cannot summarily dismiss the complaint plaintiffs have filed,” federal district judge Justin L. Quackenbush said during the two-hour hearing Friday. “It’s thorough to say the least. On its face, the complaint alleges not only aiding and abetting but participation and complicity in the administration of this enhanced interrogation program.”

Attorneys for the psychologists argued that they should not be held liable because they were “merely suggesting” torture methods that might be used. ACLU attorneys argued that the psychologists actually designed the program and were deeply involved in implementing it.

The CIA torture program looms over the ongoing US elections like a giant volcano that everyone must pretend not to notice. The Senate Intelligence Committee report implicates top figures in both the Bush and Obama administrations in war crimes and conspiracies to cover up war crimes. Both the Democratic and Republican parties are in full agreement that these crimes will not be discussed and there will be no calls for the perpetrators to be brought to justice.

Since the systematic exposure of the program in December 2014, the media has completely dropped the issue, while the Obama administration has worked with Congressional Republicans to suppress the full report. As of this writing, only the report’s executive summary has been released.

Among the innumerable crimes exposed by the report, the most infamous was the practice of “rectal rehydration, without evidence of medical necessity.” In the Senate report, one medical officer translated this euphemism for torture into plain English: “you get a tube up as far as you can, then open the IV wide. No need to squeeze the bag—let gravity do the work.” The Senate report describes how detainees were subjected to this procedure repeatedly for no apparent medical reason, resulting in permanent disfiguring injuries.

As the group Physicians for Human Rights wrote in 2014, “Insertion of any object into the rectum of an individual without his consent constitutes a form of sexual assault.”

None of the individuals whose crimes were exposed in December 2014 have been prosecuted. Instead, many of these individuals continue to hold high posts in the Obama administration, including those who lied about the program and helped to cover it up. None of the

presidential candidates, from Donald Trump to Bernie Sanders, has called for the prosecution of these war criminals. Instead, the issue of torture has been raised principally by the Republican candidates who are promising to expand the practice.

Donald Trump’s position on torture is that he is in favor of more of it because “we have to beat the savages.” In March, he declared, “we cannot continue to play by different sets of rules when we have people beheading Christians and selling their children into slavery.”

Bernie Sanders’ response to the Senate torture report in 2014 was to issue a perfunctory statement that meekly criticized torture from a pragmatic standpoint within the framework of the war on terror. “Of course we must aggressively pursue international terrorists who would do us harm, but we must do so in a way that is consistent with the basic respect for human rights which makes us proud to be Americans,” he wrote. “The United States must not engage in torture. If we do, in an increasingly brutal world we lose our moral standing to condemn other nations or groups that engage in uncivilized behavior.” He has since essentially dropped the issue, together with the rest of the political and media establishment.

The ruling on Friday means that the case will proceed to discovery, allowing lawyers for the victims the right to obtain documents as well as to compel testimony under oath of individuals involved in the program. In a statement Friday, the ACLU wrote, “Thanks to this unprecedented ruling, CIA victims will be able to call their torturers to account in court for the first time.”

A sense of the looming crisis resulting from the exposure of the CIA’s crimes is provided by an exchange from Friday’s hearing. The federal judge asked directly, “Is there evidence in this case that the President of the United States of America specifically authorized the activities?” James Smith, an attorney for the two psychologists, responded, “Ultimately the CIA was authorized by the President of the United States to take these actions.”



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