



Written by [Jack Kenny](#) on May 17, 2011

Supreme Court Rejects “Torture Flights” Appeal

The U.S. Supreme Court Monday refused to consider the appeal of five former terrorism suspects who claim they were kidnapped and taken on “torture flights” by the United States to other countries and subjected to brutal interrogations by the U.S. Central Intelligence Agency. The decision leaves standing a federal appeals court ruling upholding the “state secrets” privilege claimed by both the Bush and Obama administrations to prevent testimony in matters regarding national security.



The suit in the case of *Binyam Mohamed v. Jeppesen Dataplan, Inc.*, was filed on behalf of the five men against a subsidiary of Boeing Aircraft. The plaintiffs claimed that Jeppesen Dataplan, Inc. provided the transportation that brought them to their respective places of torture. The suit was a legal challenge to the Bush administration’s “extraordinary rendition” policy that authorized the transporting of suspected terrorists to locations outside the United States for questioning, often by means the administration called “enhanced interrogation” and others have simply called “torture.” The Obama administration has continued the practice of extraordinary rendition and the Justice Department under Obama continued to press the Bush administration’s argument that vital state secrets would be compromised if the case went to trial.

The lead plaintiff was Binyam Mohamed (photo, above), a native of Ethiopia who was arrested in Pakistan in 2002. According to court records, he was detained for three months, then secretly transported by a private U.S. chartered jet to Morocco. There, he alleged, he was detained for 18 months, during which he was tortured in an effort to extract information from him about terrorist activities. He claimed he was beaten unconscious, cut with a scalpel in various part of his body and had hot liquid poured on him. He was later turned over to U.S. authorities and was confined at the military prison at Guantanamo Bay, Cuba. According to a Pentagon report cited by the [Cable News Network](#), Mohamed admitted undergoing training at a terrorist base in Afghanistan, but later recanted, claiming the evidence against him was obtained from torture he underwent during his Moroccan



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captivity. He was freed in 2009 and now lives in the United Kingdom.

The other four plaintiffs claimed they also were “forcibly disappeared,” subjected to arbitrary detention and tortured. All five men brought suit against the British and American governments as well Jeppesen Dataplan

“I have been through an experience that I never thought to encounter in my darkest nightmares,” Mohamed said when the lawsuits were filed. “It is still difficult for me to believe that I was abducted, hauled from one country to the next, and tortured in medieval ways — all orchestrated by the United States government.” American Civil Liberties Union attorneys representing the plaintiffs described the Supreme Court’s decision Monday as both a denial of justice and a stain on the nation’s honor.

“With today’s decision, the Supreme Court has refused once again to give justice to torture victims and to restore our nation’s reputation as a guardian of human rights and the rule of law,” said Ben Wizner, the ACLU’s litigation director for national security issues. The lawyers urged the Obama administration to reconsider its reliance on the state secrets privilege in other lawsuits alleging abuses by the government.

The appeal to the nation’s highest court followed last year’s closely divided decision by a panel of the Ninth Circuit Court of Appeals in San Francisco, denying the plaintiffs the right to bring their case to trial. In a 6-5 decision the judges ruled in favor of the Justice Department’s argument that a trial would present “an unacceptable risk of disclosure of state secrets no matter what the legal or factual theories Jeppesen would choose to advance during a defense.” The ruling brought sharp criticism of the Obama administration and its Justice Department for continuing a Bush policy denounced by candidate Obama in the 2008 presidential campaign. Salon.com columnist Glenn Greenwald, a former civil liberties lawyer, has been among the President’s most persistent critics in that regard.

“Suffice to say — with great understatement — Obama’s doing this doesn’t trigger the same level of outrage and objection as when Bush did it, at least not in most circles,” Greenwald lamented in his [column of September 8, 2009](#). The [New York Times](#), however, did not spare Obama the criticism it had previously leveled against Bush for abusing the state secrets privilege in order to “avoid embarrassing the government, not to protect real secrets. In this case, ” the *Times* editorial said, “the embarrassment and the shame to America’s reputation are already too well known.”



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