



FOR IMMEDIATE RELEASE

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**ON BEHALF OF 11 MEMBERS OF CONGRESS,
WLF URGES COURT TO GRANT RELIEF
TO AMERICANS TORTURED IN IRAQ**

(Iraq v. Beatty)

The Washington Legal Foundation (WLF) this week urged the U.S. Supreme Court to permit Americans who were tortured by Saddam Hussein's regime to sue Iraq for their damages. The Americans include U.S. military personnel held by Iraq as prisoners-of-war during the 1991 Persian Gulf war.

In a brief filed in *Iraq v. Beatty*, WLF argued that Congress abrogated Iraq's sovereign immunity from such suits because of Iraq's status as a "state sponsor of terrorism." WLF filed its brief on behalf of 11 Members of Congress (U.S. Reps. Bruce Braley (IN), Bob Filner (CA), Hank Johnson (GA), Steve Kagan (WI), Barbara Lee (CA), Jim McGovern (MA), Debbie Wasserman Schultz (FL), Joe Sestak (PA), and Peter Welch (VT); and U.S. Senators Tom Harkin (IA) and Frank Lautenberg (NJ)); two groups that represent the interests of veterans (Veterans United for Truth and the National Veterans Organization of America), and the Allied Educational Foundation. WLF's brief was drafted with the *pro bono* assistance of attorneys Douglas W. Dunham, Ellen Quackenbos, and Joseph H. Escandon of the New York office of Skadden Arps.

"As a result of U.S. efforts, Saddam Hussein was removed from power in 2003," said WLF Chief Counsel Richard Samp after filing WLF's brief. "But that regime change does not alter the fact that the plaintiffs suffered grievous injuries at the hands of Iraqi torturers; the change should not be used as an excuse to deny them their day in court," Samp said.

Beginning in 1990, the government of Iraq was designated by both the President and Congress as a "state sponsor of terrorism." Over the past 20 years, Congress has passed a series of laws that prohibit a country so designated from receiving a variety of economic benefits (*e.g.*, foreign aid, favorable trade status). In 1996, Congress passed a law that amended the Foreign Sovereign Immunities Act (FSIA) to provide that, when a country has been designated a state sponsor of terrorism, it loses its immunity from lawsuits seeking damages for torture or extrajudicial killing. It is pursuant to that 1996 law (known as § 1605(a)(7)) that the plaintiffs in these cases filed suit against Iraq.

The question before the Court is whether Iraq regained that sovereign immunity as a result of events that took place in 2003. After Saddam Hussein was removed from power, Congress adopted a law (at the request of President Bush) that permitted the President to exempt Iraq from laws that imposed special burdens on Iraq as a result of its status as a “state sponsor of terrorism.” The President thereafter asserted the right to declare Iraq exempt from § 1605(a)(7) and thus no longer subject to suit (such as the ones filed by Respondents) alleging torture or extrajudicial killing. Many members of Congress objected that it had never been their intent to grant the President such authority.

The U.S. Court of Appeals for the District of Columbia Circuit ruled against Iraq, holding that federal courts retained jurisdiction to hear torture claims against Iraq. Chief Justice John Roberts, while still a member of the appeals court, dissented from one such D.C. Circuit panel ruling. In January of this year, the Supreme Court agreed to review the jurisdictional issue.

In its brief, WLF argued that the 2003 law on which Iraq relies was only intended to exempt Iraq from laws that impose economic sanctions or that prohibit grants of assistance to state sponsors of terrorism. It was not intended to affect the jurisdiction of the federal courts, WLF argued. WLF noted that Congress adopted a law in 2008 that explicitly stated that the 2003 law was not intended to limit the jurisdiction of federal courts. WLF argued that the 2008 law is entitled to "great weight" in determining the proper construction of the 2003 law.

The Obama Administration has filed an *amicus curiae* brief in the case in support of Iraq. It views these torture lawsuits as creating a potential roadblock to restoration of a stable government in Iraq. WLF noted in response that permitting the cases to go forward does not guarantee a judgment for the plaintiffs or any amount of damages. All the plaintiffs are asking from the Supreme Court is that they be given their day in court, WLF said.

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For further information, contact WLF Chief Counsel Richard Samp, 202-588-0302. A copy of WLF's brief is posted on WLF's web site, www.wlf.org.