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## Five Former US Attorneys-General and Two Former FBI Directors Join WLF in Asking US Supreme Court to Protect Government Officials from Tort Claims Seeking Damages

*(Ashcroft v. Turkmen)*

**“The appeals court decision wrongly strips the Attorney General and FBI Director of the protection from tort claims to which the qualified immunity doctrine entitles them. Efforts to hold officials personally liable for alleged official misconduct are highly disruptive and likely to impair the performance of their duties.”**

**—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—Washington Legal Foundation today called on the U.S. Supreme Court to review and overturn a decision by the Second Circuit Court of Appeals that exposes senior federal officials—including former Attorney General John Ashcroft and former Federal Bureau of Investigation Director Robert Mueller—to damages claims based on how they investigated the 9/11 terrorist attacks. WLF filed its brief in *Ashcroft v. Turkmen* on behalf of five former U.S. Attorneys-General (William Barr, Alberto Gonzales, Edwin Meese, Michael Mukasey, and Dick Thornburgh) and two former FBI Directors (William Sessions and William Webster).

The suit stems from the arrest and detention of several Arab/Muslim aliens illegally in the U.S., who were held under harsh conditions for several months after 9/11 until deported. The plaintiffs contend the conditions of confinement violated their constitutional rights because: (1) defendants (including Ashcroft and Mueller) knew that plaintiffs lacked any connection to terrorism; and (2) subjected them to harsh conditions because defendants intended to discriminate against them based on their religion and ethnic background. The appeals court deemed the complaint valid, which would force defendants to respond and subject them to pre-trial discovery proceedings.

WLF’s brief argues that the qualified immunity doctrine protects senior government officials from lawsuits when, as here, there is no “clearly established” case law indicating that the officials’ alleged actions violated the plaintiffs’ constitutional rights. WLF contends that it is particularly inappropriate to permit such suits when the plaintiffs’ claims touch directly on national security issues, thereby potentially disrupting efforts to prevent future terrorist attacks.

Upon filing its brief, WLF issued the following statement by Chief Counsel Richard Samp: “The appeals court decision wrongly strips the Attorney General and FBI Director of the protection from tort claims to which the qualified immunity doctrine entitles them. Efforts to hold officials personally liable for alleged official misconduct are highly disruptive and likely to impair the performance of their duties. Qualified immunity is supposed to protect all government officials except those who are plainly incompetent or knowingly violate the law.”

*WLF is a public-interest law firm and policy center that regularly advocates for reasonable restraints on tort liability and against legal policies that jeopardize U.S. national security.*