

By James Vicini

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A federal appeals court ruled on Friday that a former U.S. government contractor who claimed he was tortured while detained by the U.S. military in Iraq cannot sue former Defense Secretary Donald Rumsfeld for money damages.

In line with rulings by other appeals courts that decided similar cases, the three-judge panel said Congress has not authorized detainees to sue U.S. military and government officials for their treatment while in detention.

It ruled that a district court judge had been wrong in allowing the lawsuit to go forward and in rejecting Rumsfeld's motion to dismiss it.

The contractor, a U.S. citizen identified in court papers only as John Doe, was employed by an American-owned defense contracting firm when he went to Iraq in December 2004. Working as a translator, he was detailed to a U.S. Marine Corps team operating along the Iraqi-Syrian border.

In 2005, he was taken to Camp Cropper, a U.S. military facility near the Baghdad airport, and held for nine months. He claimed prison guards abused him, exposing him to extreme temperatures, depriving him of sleep and choking him.

He eventually was released and never was charged with a crime. The U.S. government has said he was suspected of helping pass classified information to the enemy and helping enemy

forces get into Iraq.

He sued in 2008, seeking to hold Rumsfeld personally liable for violating his rights on the grounds that Rumsfeld as Pentagon chief had developed, authorized and implemented the policies that caused him harm.

The U.S. Court of Appeals for the District of Columbia Circuit said the special factors in this case counseled against creating a new category of cases in which government officials can be personally sued under a Supreme Court ruling more than 40 years ago.

It said the Supreme Court has never implied that such a lawsuit can be brought in a case involving the military, national security or intelligence.

"Litigation of Doe's case would require testimony from top military officials as well as forces on the ground, which would detract focus, resources and personnel from the mission in Iraq," Chief Judge David Sentelle wrote in the 13-page opinion.

"Allowing such an action would hinder our troops from acting decisively in our nation's interest for fear of judicial review of every detention and interrogation," he wrote.

In Chicago, Michael Kanovitz, an attorney for the contractor, expressed disappointment with the ruling and said he intended to continue the litigation before all the appeals court judges or before the Supreme Court.

"We think that the result is wrong, that it upsets the fundamental notion in our democracy that the judicial branch exists to enforce the constitutional rights of U.S. citizens, and that it ignores the express command of Congress, the people's elected representative," he said.

A spokesman for the U.S. Justice Department, which argued the case on behalf of Rumsfeld, declined comment on the ruling.

The appeals court case is John Doe v. Rumsfeld, No. 11-5209.