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From [The Seattle Times](#) | Original Article

The ACLU challenges that claim, saying psychologists should be held accountable for the methods they designed following the Sept. 11 terror attacks, including waterboarding and beatings. The sides plan arguments Friday in U.S. District Court in Spokane.

The two psychologists who helped craft the CIA's harsh interrogation methods used in the war on terror should be as free from liability as a worker for a company that supplied the Nazis with poison gas used in concentration camps, defense lawyers said in a motion to dismiss a lawsuit from former detainees.

The American Civil Liberties Union challenges that claim, saying the psychologists should be held accountable for the methods they designed following the Sept. 11 terror attacks, including waterboarding and beatings. The sides plan arguments Friday in U.S. District Court in Spokane.

The outcome will determine whether the lawsuit will go to trial, set for Sept. 5. The judge could decide that the psychologists are guilty of aiding and abetting torture and no trial is needed. He also could dismiss the suit or limit what claims can be pursued.

Like the gassing technician who was acquitted on charges of helping the Nazis, Spokane psychologists James Mitchell and Bruce Jessen were independent contractors who lacked authority to "control, prevent or modify" the CIA's use of enhanced interrogation techniques, their lawyers said.

Challenging that argument is Dror Ladin, an American Civil Liberties Union lawyer who sued on behalf of three former detainees: Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud and a

representative of Gul Rahman, who died in custody.

They were subjected to physical assaults and sleep deprivation, forced to stand for days in diapers with their arms chained overhead, doused with icy water and stuffed into boxes.

“In fact, the Nuremberg tribunals that judged the Nazis and their enablers after World War II established the opposite rule: Private contractors are accountable when they choose to provide unlawful means and profit from war crimes,” Ladin said.

The owner of the company that developed the poison gas for the Nazis was executed after World War II.

Mitchell and Jessen came up with the “torture methods,” personally tested them on the CIA’s first prisoner, and formed a company that took in \$81 million to run the program, Ladin said.

“Making money by choosing to supply the tools for torture isn’t ‘simply doing business,’” Ladin said. “It’s illegal.”

The psychologists’ lawyers say they hoped to “prevent another catastrophic attack on the United States.”

When the CIA asked for help interrogating Abu Zubaydah, a “high value” detainee, Mitchell suggested methods used for decades at an U.S. Air Force school, his lawyers said. When the CIA asked for more details, Mitchell provided that help and brought in Jessen.

The techniques were designed to motivate a person to provide information, “while avoiding permanent physical harm or profound and pervasive personality change,” defense lawyers said. Mitchell and Jessen “never acted beyond the scope of their CIA contracts,” the attorneys said.

They noted the lawsuit over the 2010 Gulf of Mexico oil spill, in which federal contractors received immunity from clean water laws for any damage resulting from their actions as long as they acted within the government's directives.

In this case, Congress empowered the president to respond to terrorist threats, and he directed the National Counterterrorism Center to capture and interrogate al-Qaida operatives. The CIA then hired the psychologists. Therefore, the government's immunity extends to Mitchell and Jessen and the lawsuit should be thrown out, their lawyers said.

The ACLU says there's a legal and moral imperative to hold the men accountable.

Mitchell helped implement interrogation techniques used on Zubaydah that began with extreme sensory deprivation, shifted to coercive methods to instill fear and despair, then moved to the "aggressive phase," involving assaults, waterboarding and stuffing him into coffin-like boxes, the ACLU said.

Zubaydah "cried, begged, pleaded, vomited, trembled, shook and became so hysterical he could not communicate," the group's lawyers said.

By 2003, the psychologists' methods were formalized in instructions sent to a secret CIA prison where the plaintiffs in the new lawsuit were held and tortured, the ACLU said. Mitchell and Jessen participated in some interrogations, the lawyers said.

When Jessen observed prolonged physical assaults on Rahman, his reaction "was to opine that it was worth trying" and suggested alterations that might prove more effective, the ACLU said.

After those methods were added, Rahman, "starved, sleepless and freezing," died of hypothermia.

