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1st time in U.S. history that court allows torture suit against current or former Cabinet Secretary

CHICAGO – Federal Judge Wayne R. Andersen issued an historic ruling today allowing a suit charging former Defense Secretary with authorizing torture.

Rumsfeld asked the court to dismiss the case because he is a high-placed governmental official and argued that he was immune from suit even for allegations of torture. Mr. Rumsfeld also argued that due to his position, the Constitution permitted him to order interrogation techniques that are widely considered by human rights experts to be torture. The Court rejected both of Mr. Rumsfeld's arguments and held that high-placed placed cabinet officials can be held personally liable if they authorize the use of torture.

While many previous civil suit attempts to prosecute Bush-era cabinet officials for authorizing torture have failed, the suit brought by Chicago-based Loevy and Loevy Attorneys at Law, *Donald Vance and Nathan Ertel v. Donald Rumsfeld, United States of America and Unidentified Agents*, will now proceed to discovery and a trial.

Donald Vance, a Navy veteran, accuses U.S. forces in Iraq of imprisoning him without charges for over three months in 2006, and torturing him during much of that time. Vance, a private security employee at the time of his arrest in Baghdad, named former U.S. Defense Secretary Donald Rumsfeld as a defendant for his role in overseeing the military prison system in Iraq.

Rumsfeld allegedly issued orders allowing torture techniques which allowed Vance to be subjected to extreme sleep deprivation, interrogation for hours at a time, held in an extremely cold cell without adequate clothing or blankets, and periodically denied food and water for long periods of time. During virtually Vance's entire three month imprisonment at the notorious Camp Cropper near Baghdad International Airport, he was held in solitary confinement in a continuously lit, windowless cell.

"Plaintiffs...allege that in August 2003 Rumsfeld sent Major Geoffrey Miller to Iraq to review the United States prison system," read Andersen's decision. "Plaintiffs claim that Rumsfeld informed Major Miller that his mission was to 'gitmo-ize' Camp Cropper.... These allegations, if true, would substantiate plaintiffs' claim that Rumsfeld was aware of the direct impact that his newly approved treatment methods were having on detainees in Iraq.... Based on these allegations, we conclude that plaintiffs have alleged sufficient facts to survive Rumsfeld's motion to dismiss on account of a lack of personal involvement.... Accepting at this stage that these treatment methods were in fact used, we conclude that a court might plausibly determine that the conditions of confinement

were torturous."

An employee of Shield Group Security (SGS) at the time of his arrest, Vance and a co-worker, Nathan Ertel, suspected their employer of paying of local sheiks for influence in obtaining government contracts and of other illegal dealings. To combat the suspected illegal activity, Vance and Ertel became unpaid informants to the FBI in Chicago and U.S. officials in Iraq. When SGS officials threatened Vance's and Ertel's lives, they arranged for U.S. military forces to rescue them. But after a few hours of interrogation and then rest at the U.S. embassy, the U.S. imprisoned Vance and Ertel, beginning their nightmarish imprisonment without habeus corpus.

Once they were in U.S. custody, low level bureaucrats invoked the unprecedented powers Rumsfeld had given them to imprison Mr. Vance and Mr. Ertel as "persons of interest" to the United States. Three months of interrogation followed, in which Mr. Vance was physically abused and denied the right to counsel, the right of access to the courts, and any legitimate process to challenge his illegal detention.

Pdf copies of Judge Andersen's ruling and the suit against Rumsfeld are below.

Dept of Full Disclosure: The author of this article is employed by Loevy and Loevy.

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