

## A TORTURER IN THE HOUSE:

### Ninth Circuit Judge Jay “Bugs” Bybee continues to hear immigration cases despite charges of incompetency

You may recall the judge’s nickname – this is the same legal counselor who authorized placement of a prisoner in a closed box with live insects as one of some dozen interrogation methods employed by the Bush administration at CIA prison camps that amounted to torture. But chilling as contents of his 2002 memos were, Bugs’ role in crafting the U.S. torture program has been largely ignored:

*Bybee is generally the forgotten man in torture studies of the Bush era. The best known of the legal architects of the torture regime is John Yoo, who was a deputy to Bybee. For better or worse, Yoo has been a vocal defender of the various torture policies, and he remains outspoken on these issues. But whatever happened to his boss? Today, Bybee is a judge of the United States Court of Appeals for the Ninth Circuit. He was confirmed by the Senate on March 13, 2003--some time before any of the "torture memos" became public. He has never answered questions about them, has never had to defend his conduct, has never endured anywhere near the amount of public scrutiny (and abuse) as Yoo. It is an understatement to say that he has kept a low profile since becoming a judge. It's a lesson in the vagaries of politics, and timing, that Bybee could slip through the cracks of this story so easily. - Jeffrey Toobin, New Yorker magazine*

Last year the New York Times called on Congress to impeach Jay Bybee over his role in authorizing the “torture memos”, writing “these memos make it clear that Mr. Bybee is unfit for a job that requires legal judgment and a respect for the Constitution.”

Jay Bybee, the former head of the Office of Legal Counsel, justified and authorized clear acts of torture by the CIA during the Bush Era. Bybee was confirmed as a federal judge to the Ninth Circuit Court of Appeals in March 2003, well before his now infamous torture memos came to light. A lifetime appointment, he sits in a deciding position on the bench when there is clear evidence that his judgment is tainted.

More recently, judge Bybee’s contributions to the legal framework underpinning Arizona’s draconian immigration bill SB 1070 have come to light. Considering the disrepute those interpretations have occasioned with Bybee’s legal peers, one has to wonder why the hell he has not recused himself from the cases he presides on in the courthouse in front of you today.

In a document, written in 2002 by the Justice Department's Office of Legal Counsel, Bybee concluded that state police officers have "inherent power" to arrest undocumented immigrants for violating federal law. The author of the Arizona law has cited this authority granted in the 2002 memo as a basis for the legislation. While the bill has been condemned by President Obama and received intense opposition from civil rights groups, Bybee’s memo complicates challenge of the hated Arizona immigration law.

ACLU's Cecillia Wang calls for the Obama Justice Department to withdraw the 2002 memo, which she finds legally incorrect, saying "The fact that this memo is lurking out there gives cover and comfort to people in Arizona and other states who want to pass these overbroad and extraordinary anti-immigration measures." What really has to happen is to have the author of these cruel and illegal opinions removed from the bench.

The World Can’t Wait -- **IMPEACH AND PROSECUTE TORTURE JUDGE JAY BYBEE!**