

# SCOTUS: RUMMY IS IMMUNE IN TORTURE SUIT

Today, SCOTUS declined to review an Appeals Court decision that ruled that Rummy and 10 other DOD officials are immune from suit for torture.

The Court's denial of review of *Rasul, et al., v. Myers, et al.* (09-227) leaves intact a federal appeals court ruling that former Defense Secretary Donald Rumsfeld and ten military officers are legally immune to claims of torture and religious bias against inmates who were at Guantanamo but have since been released. The Obama Administration had urged the Court not to hear the case, saying that, whatever claims the four ex-detainees were now making, they had no legal basis for those challenges at the time they were at the U.S. military prison in Cuba – that is, between January 2002 and March 2004.

The D.C. Circuit Court had ruled in favor of immunity, and in doing so avoided a repeat of its earlier decision – vacated by the Supreme Court – that Guantanamo prisoners had no constitutional rights. The Justices had ordered reconsideration of that conclusion. Instead of ruling anew on the legal challenges, the Circuit Court opted for an immunity finding. The Supreme Court's denial of review does not stand as a precedent on that point, or on the substance of the ex-prisoners' challenges.

As Adam Serwer points out, SCOTUS' refusal to review the immunity ruling once again deprives the American justice system of a definitive

ruling that torture is wrong.

This case, *Rasul v. Rumsfeld*, was important not just because of the alleged abuse involved. It's important because civil liberties groups are seeking, as Ben Wizner of the ACLU, who is one of the lawyers in the *Mohamed, et al. v. Jeppesen*, rendition case, said last week, a "binding definitive determination" from the courts that the kind of treatment suspected terror detainees were subjected to under the Bush administration was illegal. Without one, government sanctioned torture may make a comeback.

But I guess Rummy and the others who facilitated torture like it that way.