

SCOTUS DENIES CERT FOR MAHER ARAR

Apparently, this country has deemed it okay to take an innocent Canadian citizen transiting through US airports and instead send them to a third country to be tortured. That seems to be the lesson from SCOTUS' decision to deny Maher Arar cert in his suit against the US. From a CCR press release on the decision:

Today, the United States Supreme Court decided not to hear the Center for Constitutional Rights (CCR) case on behalf of Canadian citizen Maher Arar against U.S. officials for their role in sending him to Syria to be tortured and detained for a year.

The decision of the U.S. Court of Appeals for the Second Circuit, which the Supreme Court declined to review, was decided on the legal ground that Congress, not the courts, must authorize a remedy. As a result, the substance of Mr. Arar's case, first filed in January 2004, has never been heard and now never will be.

Mr. Arar said, "Today's decision eliminates my last bit of hope in the judicial system of the United States. When it comes to 'national security' matters the judicial system has willingly abandoned its sacred role of ensuring that no one is above the law. My case and other cases brought by human beings who were tortured have been thrown out by U.S. courts based on dubious government claims. Unless the American people stand up for justice they will soon see their hard-won civil liberties taken away from them as well."

Last month, the Obama administration chose to weigh in on Mr. Arar's case for

the first time. The Obama administration could have settled the case, recognizing the wrongs done to Mr. Arar as Canada has done. (Canada conducted a full investigation, admitting wrongdoing, exonerated Mr. Arar, apologized, and paid him \$10 million in damages for their part in his injuries.) Yet the Obama administration chose to come to the defense of Bush administration officials, arguing that even if they conspired to send Maher Arar to torture, they should not be held accountable by the judiciary.

Said CCR cooperating attorney David Cole, "The courts have regrettably refused to right the egregious wrong done to Maher Arar. But the courts have never questioned that a wrong was done. They have simply said that it is up to the political branches to fashion a remedy. We are deeply disappointed that the courts have shirked their responsibility. But this decision only underscores the moral responsibility of those to whom the courts deferred – President Obama and Congress – to do the right thing and redress Arar's injuries."

Lower courts concluded that Mr. Arar's suit raised too many sensitive foreign policy and secrecy issues to allow his case to proceed, and that therefore it was the role of the political branches to authorize a remedy.

The decision does not bode well for either state secrets cases or for suits trying to hold Bush Administration officials responsible for torture (such as the Yoo appeal being heard in the 9th Circuit today).

Which I guess means we've officially become a country that finds protecting those who commit torture more important than justice for those

who were tortured.