

# SCOTUS: GOVT CAN USE STATE SECRETS TO HIDE CRIMES

SCOTUS just declined to take the Jeppesen Dataplan suit.

The high court rejected an appeal by five men who claimed that U.S. operatives—with support from Jeppesen Dataplan Inc., a Boeing unit—abducted them and sent them to other countries where they were tortured. They alleged Jeppesen provided critical flight planning and logistical support to the CIA's "extraordinary rendition" program. The men were seeking unspecified monetary damages from the company.

This effectively means that men like Binyam Mohamed, who the Brits have admitted was tortured after being rendered, cannot sue for redress. And the ruling is particularly egregious since a Jeppesen executive admitted that his company was flying rendition flights.

In effect, SCOTUS' decision not to take this case leaves in place state secrets precedent that allows the government to commit grave crimes, but hide behind state secrets.

Update: The Brennan Center and a bunch of other crazy hippies who believe in rule of law wrote a letter in response to SCOTUS' decision to DOJ reminding them that, per their purported state secrets policy, credible allegations of wrongdoing must be referred to the Inspectors General of the relevant agencies for investigation.

In December of last year, the undersigned groups and individuals wrote to inquire whether the Department of Justice had referred to the Inspectors General (IG) of the Defense Department, the Central Intelligence Agency, the

Department of Justice, or any other department or agency allegations arising out of the government's extraordinary rendition program detailed in several recently dismissed civil complaints—a referral required by the Department of Justice's policy on the use of the state secrets privilege issued on September 23, 2009 (hereinafter "the September 23 policy"). As we have received no response to that letter, and today's Supreme Court decision makes it highly unlikely that any examination of the issue will take place in the courts, we submit this open letter posing the same question.

If the required referrals have not yet been made, we respectfully request that you now ask the relevant IGs to undertake a joint investigation into the Executive's use of extraordinary rendition and to issue a public report—with as little redaction as possible—of their findings. Should the IG investigation uncover government wrongdoing, we also urge that plaintiffs' legitimate claims be acknowledged and redressed—that the government vindicate their claims by recognizing the ordeals they endured and denouncing any wrongdoing; by issuing a public apology; by providing monetary compensation; and through any other means that justice requires.

[snip]

Consequently, we believe that a thorough investigation—conducted by all relevant Inspectors General with full access to all relevant witnesses, documents, tapes, photographs, and other material, and culminating in a public report—would serve the interests of justice, and would accord with the September 23 policy's aspiration to "provide greater

accountability and reliability in the invocation of the state secrets privilege." Moreover, where government wrongdoing is uncovered, providing plaintiffs appropriate redress could at least grant some small measure of recompense for the denial of these plaintiffs' day in court.

This is me officially holding my breath for the Obama Administration to do what they promised on this front.