

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Abukar Hassan Ahmed,

Plaintiff,

v.

Abdi Aden Magan,

Defendant.

Case No. 2:10-cv-342

Judge Smith

Magistrate Judge Abel

ORDER

In April 2010, Plaintiff Abukar Hassan Ahmed, initiated this action under the Torture Victim Protection Act, and the Alien Tort Statute, against Defendant, Abdi Aden Magan, alleging Defendant's responsibility for the torture, arbitrary detention, and cruel, inhuman or degrading treatment or punishment of Plaintiff in Somalia, during the reign of the Barre government, and during which time Defendant held the rank of Colonel and served as Chief of the National Security Service of Somalia Department of Investigations. Defendant moves for dismissal of this action, arguing, *inter alia*, that the common law doctrine of official act immunity bars this Court of the United States from exercising jurisdiction over Plaintiff's claims.

In view of the immunity issue raised in this action, the Court finds it appropriate to invite the United States Department of State to provide its views, if any, on this issue, or any other related issue raised by Defendant's motion to dismiss. *See Samantar v. Yousuf*, 130 S.Ct. 2278 (2010) (indicating that it remains appropriate, if not necessary, in cases involving a current or former foreign official asserting common law immunity, for courts to request a statement of

interest from the Department of State regarding the matter). If the Department of State chooses to submit a statement of interest, it should file its statement with this Court by January 31, 2011, or notify the Court that it intends to file such statement at a later date.

If the Department of State files a statement of interest as requested, this Court will then request additional briefing from the parties regarding the proper deference to be afforded to the statement. If the Department of State does not file a statement of interest by January 31, 2011, or otherwise indicates to the Court that it declines to submit a statement of interest in this case, the Court will then resolve the pending motion to dismiss on the briefs that have already been submitted.

s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT