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MEMBERS OF CONGRESS, RETIRED MILITARY OFFICIALS, CAREER FOREIGN SERVICE DIPLOMATS, HOLOCAUST SURVIVORS AND OTHERS FILE AMICI CURIAE BRIEFS WITH SUPREME COURT IN SUPPORT OF RESPONDENTS IN SAMANTAR v YOUSUF

Amicus Briefs Filed Yesterday in Case Where Court Will Decide Whether Former Foreign Government Officials Who Order Torture, Rape and Extrajudicial Killings Are Above the Law, or Whether Those Who Avail Themselves of All The Benefits of Living in the U.S. Must, Like all Other Americans, Submit Themselves to U.S. Law

Washington, D.C. - The Center for Justice and Accountability announced today that nine amicus curiae briefs were filed with the United States Supreme Court yesterday in support of the respondents in the case of *Samantar v Yousuf*, NO. 08-1555. In this case, the Court will decide if former foreign government officials - who, after using their power to order torture, rapes, and killings of innocent civilians -- can choose to live in the United States while refusing to submit to its laws and refusing to accept responsibility for their actions.

The key issue under review by the Supreme Court is whether Fairfax, Virginia resident and former Somali Defense Minister Mohammed Ali Samantar can be held accountable under the Torture Victim Protection Act (TVPA) - or whether he is immune under the Foreign Sovereign Immunities Act from civil suit in the U.S. for human rights abuses committed in Somalia. The TVPA, passed by Congress in 1991, provides that the U.S. will not be a safe haven for perpetrators of the worst human rights abuses and that foreign government officials who chose to come to the United States after torturing and killing cannot claim to be above the law and will be held accountable for their actions in U.S. courts.

Some of the briefs filed in support of the respondents include:

Members of Congress: Senator Arlen Specter (PA), Senator Russ Feingold (WI), and Rep. Sheila Jackson Lee (TX) state that Congress intended for the Torture Victim Protection Act to apply to individuals and that the legislative record shows that Congress considered the Foreign Sovereign Immunities Act (FSIA) when the TVPA was written, and determined that the FSIA would not bar suits under TVPA. Sen. Specter authored the TVPA, which was signed into law in 1991.

Military Officials: The brief from retired military officials, including three star generals, states that the military prohibition on torture and stringent accountability measures encourage reciprocity with other countries by, among other things,

allowing the U.S. to demand better protection for its servicemen and women. In addition, military officials write that human rights violators like Samantar create unstable countries that lead to U.S. military involvement. They question why - after putting U.S. troops in harms way to battle people like Samantar -- the U.S. would turn around and provide Samantar with a safe haven years later.

Career Foreign Service Diplomats: Ambassador Thomas Pickering is among the career diplomats who state that withholding immunity will not harm U.S. foreign policy. The brief argues that human rights violators must be held accountable and that sheltering former foreign officials behind an impenetrable wall of sovereign immunity is inappropriate.

Holocaust Survivors and Anti-genocide Groups: Holocaust survivors and anti-genocide groups – including the Save Darfur Coalition, which represents over 130 million people -- argue that the world learned from the Nuremberg trials that individuals can be held accountable for their bad deeds and that they cannot hide behind government immunity.

U.S. Government: The United States Government writes that foreign officials' immunity should be governed by the principles of immunity articulated by the Executive Branch - not the FSIA. The brief states that the FSIA sets forth a general rule of immunity for a "foreign state," but makes no reference to the immunity of individual foreign officials. The Government states that the FSIA's text, structure and legislative history demonstrate that Congress did not intend the FSIA to govern such determinations or to displace Executive Branch principles governing the immunity of current and former officials. The brief raises the question of whether an individual like Samantar who engages in torture and extrajudicial killing and then chooses to reside in the US would merit immunity under common law.

Additional amicus curiae briefs were filed yesterday by:

Somali academics/historians including I.M. Lewis, Lee Cassanelli, Peter Pham, Gerard Prunier, and Dr. Hussein Bulhan;
 Somaliland Foreign Minister Mr. Abdillahi Mohamed Duale;
 Human rights groups, including Human Rights First, Amnesty International, Human Rights Watch, and religious organizations;
 International and Comparative Law professors, including Frederic Kirgis, Ved Nanda, Leila Sadat, Mathias Reimann, Steven Ratner, Mary Ellen O'Connell and David Bederman; and,
 Professors of International Dispute Resolution, including Stephen Burbank, Richard Buxbaum, David Caron, Kevin Clermont, William Dodge, Thomas Lee, Michael Ramsey and Edward Swaine.

The Center for Justice and Accountability is working with lead Supreme Court counsel Patricia Millett of Akin Gump Strauss Hauer & Feld LLP and co-counsel Cooley

Godward Kronish LLP on this matter. This case is part of Akin Gump's pro bono human rights & refugee practice. All of the briefs filed today are available at www.cja.org.

Background on the Case

The plaintiffs are Mr. Bashe Abdi Yousuf, an American citizen who, as a young business man was detained, tortured, and kept in solitary confinement for over six years; Aziz Mohamed Deria, also an American citizen, whose father and brother were abducted and killed by officials and never seen again; John Doe I, whose brothers were summarily executed by soldiers; Jane Doe, a university student who was detained by officials, raped 15 times, and put in solitary confinement for over three years; and John Doe II, who was imprisoned for his clan affiliation and shot by a firing squad, but who miraculously survived by hiding under other dead bodies.

Mohamed Samantar, the former Defense Minister of Somalia who has lived in Fairfax, Virginia for over ten years, headed the Somali military, which engaged in the rampant use of torture, rape, and summary execution to eliminate members of disfavored ethnic groups and political opponents. The five plaintiffs in the case, including two U.S. citizens, are survivors of the torture or representatives of family members who were killed under Samantar's command in Somalia. This is the first human rights case ever filed addressing human rights abuses committed in Somalia during the brutal Siad Barre regime.

CJA and Cooley Godward filed this civil lawsuit under the Torture Victim Protection Act (TVPA) seeking damages on behalf of the 5 survivors. According to the TVPA, when the alleged torturer has chosen to live within U.S. borders and an effective judicial system is unavailable in the country where the crimes were committed - as is the case in Somalia - the torturer can be held accountable under the laws of the United States. Congress passed TVPA and President George H. W. Bush signed it into law because they did not want torturers who have fled from their crimes to seek safe haven in the United States.

Akin Gump Strauss Hauer & Feld LLP and Cooley Godward Kronish LLP are pro bono co-counsel for the case before the Supreme Court. Oral arguments are scheduled for March 3 at 10:00am. To learn more about the case go to www.cja.org.

About Center for Justice and Accountability

CJA is a San Francisco-based human rights organization dedicated to deterring torture and other severe human rights abuses around the world and advancing the rights of survivors to seek truth, justice and redress. CJA uses litigation to hold perpetrators individually accountable for human rights abuses, develop human rights law, and advance the rule of law in countries transitioning from periods of abuse.

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