



For Immediate Release
June 19, 2006

Contact: Moira Feeney, Esq.
Media Coordinator
(415) 544 0444 x 302
mfeeney@cja.org

COURT RULES THAT U.S. GOVERNMENT CANNOT EVADE SUBPOENAS

U.S. STATE DEPARTMENT IS REQUIRED TO COMPLY WITH SUBPOENA FOR DOCUMENTS IN HUMAN RIGHTS CASE AGAINST FORMER SOMALI PRIME MINISTER

Washington, D.C.: A federal appeals court has ruled that the U.S. Government is required to comply with subpoenas for documents in private lawsuits even when the government is not directly involved in the case. In so doing, the court rejected the Bush administration's argument that it is not bound by a federal rule governing the enforcement of subpoenas.

The ruling stems from a lawsuit filed by several survivors of human rights abuses in Somalia against Mohamed Ali Samantar, who served as Prime Minister and Defense Minister of the East African country during the 1980s. In December 2004, attorneys from the Center for Justice & Accountability (CJA) and Cooley Godward LLP, who are representing the survivors on a *pro bono* basis, served a subpoena on the State Department requesting U.S. government documents relating to human rights and military issues in Somalia.

The Department of Justice, speaking on behalf of the U.S. Government, objected to attempts to enforce the subpoena, arguing that the government is not a "person" under Rule 45 of the Federal Rules of Civil Procedure and therefore did not have to comply with the subpoena. The District Court for the District of Columbia agreed, holding that the subpoena was invalid. This ruling by the U.S. Court of Appeals for the D.C. Circuit overturns that decision and sends the case back to the District Court to enforce the subpoena.

Chief Judge Douglas H. Ginsburg, who was appointed to the D.C. Circuit by President Reagan, stated that the drafters of the rule on subpoenas "underestimated the creativity of the United States" when they concluded that the rule was "so simple that it did not need any discussion." He concluded, "That creativity notwithstanding, we hold the United States is a 'person' within the meaning of Rule 45 -- as it has been held to be under every Rule thus far litigated."

The lawsuit, *Yousuf, et al. v. Samantar*, was filed in the U.S. District Court for the Eastern District of Virginia in 2004 by CJA, a San Francisco-based non-profit organization that works to end impunity by bringing to justice perpetrators of human rights abuses, and Cooley Godward, a national law firm. The complaint alleges that Samantar is responsible for torture, killings and crimes against humanity committed by troops under his command in Somalia.

For more information, please visit CJA's website at www.cja.org. A copy of the D.C. Circuit's ruling is available at <http://www.cja.org/cases/samantardocs.shtml>.

###