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Supreme Court rejects ex-Somali official's immunity claim

The justices rule that the U.S. immunity law does not prevent Somalis who say they or their relatives were tortured from suing former Prime Minister Mohamed Ali Samantar, who now lives in Virginia.

June 01, 2010 | By David G. Savage, Tribune Washington Bureau

Reporting from Washington — Torture victims won a victory Tuesday when the Supreme Court ruled that federal law does not automatically protect ex-officials of foreign governments from lawsuits over the abuse.

In a 9-0 ruling, the high court rejected a claim of immunity from former Somali Prime Minister Mohamed Ali Samantar. Although the Foreign Sovereign Immunities Act of 1976 shields other countries from being sued in American courts, it does not protect former officials of those states, the justices said.

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Citing the words of Congress, Justice John Paul Stevens wrote, "There is nothing to suggest we should read 'foreign state' ... to include an official acting on behalf of the foreign state."

The ruling removes a major obstacle facing several former Somali citizens who say they and their families were subjected to killings and torture at the hands of Somali officials. They sued Samantar because he was living comfortably in retirement in northern Virginia. From 1980 until 1990, he served as vice president, defense minister and prime minister under the brutal regime of President Mohamed Siad Barre.

The lead plaintiff, Barre Yousuf, was at the Supreme Court in March when his case was heard. Afterward, he described the killings and abuse carried out by Somali troops. "I was tortured with an electric shock and waterboarded," he said.

He and other Somalis sued Samantar under the Torture Victim Protection Act of 1991, but a judge blocked the suit on the grounds that the claim conflicted with the law granting immunity to foreign states.

Their attorney praised Tuesday's ruling.

"We are very thrilled with the court's decision today," said Pamela Merchant, executive director of the San Francisco-based Center for Justice and Accountability, which represents the Somali plaintiffs. "Faced with a choice between accountability and immunity, the Supreme Court squarely came down in favor of accountability. It means that our clients and their families, who are victims of torture, rape and murder, will now be able to hold Mr. Mohamed Samantar, the man who is responsible for these horrific actions, accountable."

Samantar denies being responsible for torture and says his government was fighting a civil war against dissident groups.

It is not clear, however, whether the ruling in Yousuf vs. Samantar will open the courthouse door for other plaintiffs who sue former officials alleging torture and abuse carried out by other foreign regimes, particularly leaders of U.S. allies.

The State Department has insisted that such cases are "ordinarily appropriate for diplomatic, rather than legal, resolution," as the Obama administration told the justices in March. The U.S. has been unwilling to permit prosecution of ex-officials of friendly states. Somalia, by contrast, has had no functioning government for nearly 20 years.

Stevens concluded his opinion by emphasizing that the court was deciding only a narrow question. Even in Samantar's case, the former prime minister "may have other valid defenses to the grave charges against him," he said.

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