

George Walker Bush's "TortureGate Corruption Scandal" Downfall Timeline

By David Andrew Bardes

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12/21/2022

DEFINITIONS

Cold Cell Torture: Locking an inmate into a cell made so cold the victim has no means to keep themselves alive. Their body temperature is forcibly reduced until dead. At 50 degrees, it takes around nine (9) hours for a person to die of hypothermia.

CIA use of cold cell torture: George W. Bush, Dick Cheney, and the CIA used cold cell torture to brutally kill two innocent Muslims.^[1] Bush torture just produced false claims, as the victims made up fake plots just to stop the torture, sending resources on wild goose chases. The entire Bush torture program was for naught; amounted to just wanton torturous murder.



**Bush/CIA Cold Cell
Torture Kills 2.**



**Bush/CIA Ice Bath Torture.
Just like Hitler.**

10816

Domestic (jails and prisons) use of cold cell torture: We average killing two domestic inmates a year^[2] with cold cell torture. Locked in the cold cell too long, with no way to stay alive. Popular in use because cold cell torture solicits prolonged painful punishment while inducing desired behaviors without leaving any marks, bruises, or blood evidence. Hypothermia has become a leading cause of preventable death in our jails and prisons. Cold cell hypothermic torture is now more widespread in use than ever before.



TIMELINE

4/3/2006 - Charleston, South Carolina. I was falsely accused of not paying my child support, and was thrown into jail until the judge signed an order striking the falsely reported arrears. During the first three days in jail, I was tortured almost to death with cold cell torture in an engineered punishment holding cell.

When I got out of jail, one lawyer after another turned me down, because federal judges dismissed every torture lawsuit to protect George W. Bush, Dick Cheney, and the CIA from prosecution for torture. The federal courts cited torture as "too hot of a topic" for the courts to address. This almost two-decade long period of instant torture lawsuit dismissal by federal judges became known as the "TortureGate Corruption Scandal."

2/12/2008 - Undeterred, I taught myself the law, filed my own federal civil rights lawsuit, *Bardes v. Magera* (2:08-cv-487-PMD-RSC.) The lawsuit was instantly dismissed. I filed objections and won; the case rolled into discovery. I was able to obtain evidence and take depositions. But the federal judge ultimately dismissed the case with a complicated fifty-page order claiming near death hypothermic torture was not a violation of the Constitution.

I appealed the case and lost. Then on March 25, 2011 the US Supreme Court denied my petition asking "Is near death hypothermic torture a violation of the Constitution?"

2011 -Charleston, South Carolina - Magistrate Carr, the lower judge on *Bardes v. Magera*, was deemed "disabled" and fired early from his contract. Lawyers who practiced in his courtroom objected to Magistrate Carr's repeated refusal to dismiss himself from torture related cases, as all Magistrate Carr did was dismiss torture cases. But it was Magistrate Carr's bizarre courtroom behavior that disabled him. So, I was to learn after the fact, the judge was whacked.

11/17/2011 - Burlington, North Carolina - I filed my second federal civil rights lawsuit, *Bardes v. South Carolina* (1:11-cv-999-CCE-LPA). Magistrate Auld purposely delayed responding to my initial complaint for over two (2) years, setting the record. Magistrate Auld then Judge Eagles, dismissed the case claiming cold cell torture did not exist, rather "reflects the delusional, wholly incredible allegations of someone suffering from mental illness." I decided to not appeal that case, as I needed more evidence about the use of cold cell torture. Cold cell torture was a much denied and well-kept secret.



12/9/2014 - Burlington, North Carolina - My break came when the US Senate Report on CIA Torture was published on 12/9/2014. President Obama said "We tortured some folks." On the same day "The Marshall Project" published their article³¹ on the domestic inmate deaths from cold cell torture. After a week of news shows discussing cold cell torture it became common knowledge, no longer a much-denied secret.



But the fallout from the report set up two events to occur less than a year later. I sued four federal judges for corruption dismissing my two cold cell torture lawsuits, and the ACLU finally filed their cold cell torture lawsuit against the two CIA torture doctors. Both of us were obviously hoping for better outcomes than before the torture report was published.

9/24/2015 - Brevard, North Carolina - I filed *Bardes v. Auld* (1:15-cv-214-MR-DLH). Suing the four (4) federal judges for TortureGate corruption dismissing my two previous torture lawsuits.

I filed *Bardes v. Auld* on a Friday, by Monday morning the website traffic exploded, Harvard Law, Vanderbilt Law, Duke Law, Yale, Princeton, Boston, Texas, Penn, dozens of other law schools and universities. Visits from all over Washington, DC, lots from the FBI and DOJ. Seems no one had ever sued four (4) federal judges for corruption before. A few days after I filed the lawsuit, in the middle of the dark night, two men showed up on my front porch knocking on my door. My dog scared them away. I do not know who sent them or what they wanted. But deductive reasoning yields ill intentions.

Bardes v. Auld was instantly dismissed with the speed of lightening, and I appealed to the Fourth Circuit Court of Appeals and was denied in days. Setting up the race to the Supreme Court of the United States.

10/13/2015 - Seattle, Washington - The ACLU finally filed their cold cell torture lawsuit, *Salim v. Mitchell* (2:15-cv-00286-JLQ), against the two CIA torture doctors who tortured to death an innocent Muslim named Gul Rahman with cold cell torture. Gul Rahman was a lead plaintiff victim in *Salim v. Mitchell*, represented by a family member.

1/8/2016 - Seattle, Washington - *Salim v. Mitchell* - "Motion to Dismiss" filed by two CIA torture doctors, motion hearing set for 4/22/2016.

1/17/2016 – Kennebunkport, Maine - Someone in Kennebunkport, Maine visited “coldcelltorture.com” from Google.com.

67.244.35.150 -- [17/Jan/2016:23:16:13 -0700] "GET coldcelltorture.com/~bc4a0975/cold/index.php HTTP/1.1" 200 6706 "https://www.google.com" "Mozilla/5.0 (Windows NT 6.1; WOW64; rv:43.0) Gecko/20100101 Firefox/43.0" 0 "x-httpd-php" "/var/chroot/home/content/00/11349200/html/cold/index.php" 268176 11349200

1/26/2016 - Washington, DC - Bardes Supreme Court petition^[4] (15-983) docketed at the Supreme Court. My one Constitutional question was: "Are citizens being brutally tortured with hypothermia until dead a violation of the Constitution?" I pleaded with the justices in my petition: "Stop it. Please. Now."

Highlights from petition:

Constitutional Question Presented:

Are citizens, being brutally tortured with hypothermia until dead a violation of the Constitution?
Does the Constitution exist?

Statement of the Case:

Why must stopping our beloved nation from brutally torturing and brutally torturing until dead, the citizens with slow brutal hypothermic torture be such a chore?

United States Appeals Court Judges Wynn, Agee, and Floyd now join those before in continuing the ongoing murders of citizens.

Are not salaries being paid to prevent me from becoming a victim barely survived and having to do my civic duty by being here today? To stop it. Stop it.

We are doing ISIS like things to our own people, crucifixion is a hypothermic death, ask ISIS. Stop it.

Stop it. Please. Now.

Reasons for Granting the Petition and Conclusion:

Perhaps never before has a more important Constitutional question been asked of the United States Supreme Court, as now the continued existence of our great nation as such lies in your answer or silence.

Submitted day 21, January 2016, by

X _____

David Andrew Bardes, *Pro Se*

The Supreme Court justices meet in person on "conference" days to vote on cases to answer. My petition was distributed for such a conference vote on March 18, 2016. The official entry posted to the docket was "DISTRIBUTED for Conference of March 18, 2016."

2/5/2016 – New York City - Someone from CBS News visited "davidbardes.com" Then visited my pictures page, then my contact page, but no one ever contacted me.

HomePage | [129.228.159.134](#) | Feb 05th 09:02:07 | | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:26.0) Gecko/20100101 Firefox/26.0 |

HomePage | [129.228.159.134](#) | Feb 05th 09:02:13 | <http://davidbardes.com/> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:26.0) Gecko/20100101 Firefox/26.0 |

PicturesPage | [129.228.159.134](#) | Feb 05th 09:02:16 | <http://davidbardes.com/index.php> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:26.0) Gecko/20100101 Firefox/26.0 |

ContactMePage | [129.228.159.134](#) | Feb 05th 09:02:22 | <http://davidbardes.com/pictures.php> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:26.0) Gecko/20100101 Firefox/26.0 |

2/13/2016 - Cibolo Creek Ranch, Texas - Justice Antonin Scalia suddenly died in his sleep while on a super-secret hunting trip.

Justice Antonin Scalia was a widely-known and stubborn protector of the Bush/Cheney torture program. In 2008, Scalia's public remarks supporting such torture, drove the National Lawyers Guild to issue a press release^[5] demanding Scalia recuse himself from any torture related lawsuits. Scalia refused.

What we know about his death from reports in the news:

Justice Scalia was invited to become a lifetime member in a private 400-year-old European based hunting fraternity. His initiation was planned with a group of thirty other members at a hunting ranch in way west Texas. Justice Scalia left his security detail behind in Houston and flew to ranch without them. Justice Scalia died in his sleep the first night, after having retired early to bed claiming he was not feeling well. Highest secrecy was maintained as to the identity of the other hunting members on the trip.

Using deductive reasoning:

Justice Scalia's security officers are sworn to never leave him alone. The only way his federal security officers would agree to leave him, where they could be legitimately excused from duty, was if too many other federal security officers were already on the plane and on the ground at the ranch. Then when Justice Scalia flew back to Houston, his security detail would resume protection.

For federal security officers to already be on the plane in Houston, and at the ranch, either a current or former federal executive who is entitled to such detail, was present on the flight and at the ranch. This bodes well for George Walker Bush and Dick Cheney to be these former executives. Both are avid hunters. Scalia actively supported Bush/Cheney torture. Therefore, George W. Bush planned the entire elaborate caper as a way to secure Justice Scalia's sway on my pending petition vote before the Supreme Court.

After Justice Scalia's sudden death, George Walker Bush lost his most ardent supporter to torture/murder, and faced uncertainty with the

eight (8) remaining justices. This sent George W. Bush back to the drawing board.

2/14/2016 – Kennebunkport, Maine – The next day George Walker Bush was in Kennebunkport, which means the moment Scalia died, Bush flew to the farthest shore. To not be found out. George Walker Bush was focused on me that day, visiting my website coming from Google.com.

ColdHomePage | **76.179.163.120** | Feb 14th 08:42:06 | <https://www.google.com> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:44.0) Gecko/20100101 Firefox/44.0 |

2/20/2016 – Maine again - George Walker Bush speaking with someone in Vero Beach, Florida, where my father lives. Both visited “davidbardes.com” coming from Google.com, so I was the topic of their conversation. My family members vacation and hunt with the Bush family. Whatever George Walker Bush wanted from my father, came to no effect.

HomePage | **98.201.213.35** | Feb 20th 14:24:04 | <https://www.google.com> | Mozilla/5.0 (Windows NT 10.0; WOW64; rv:44.0) Gecko/20100101 Firefox/44.0 |

HomePage | **98.201.213.35** | Feb 20th 14:26:26 | | Mozilla/5.0 (Windows NT 10.0; WOW64; rv:44.0) Gecko/20100101 Firefox/44.0 |

HomePage | **98.201.213.35** | Feb 20th 14:35:07 | <http://davidbardes.com/> | Mozilla/5.0 (Windows NT 10.0; WOW64; rv:44.0) Gecko/20100101 Firefox/44.0 |

HomePage | **69.137.173.233** | Feb 20th 16:51:00 | <https://www.google.com/> | Mozilla/5.0 (iPhone; CPU iPhone OS 9_2_1 like Mac OS X) AppleWebKit/601.1.46 (KHTML, like Gecko) Version/9.0 Mobile/13D15 Safari/601.1 |

3/10/2016 – Jackson Hole, Wyoming area - Home of Dick Cheney, visited “coldcelltorture.com” coming from Google.

ColdHomePage | **69.20.153.114** | Mar 10th 14:09:27 | <https://www.google.com> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:43.0) Gecko/20100101 Firefox/43.0 |

Idaho Falls, Id

ColdHomePage | **173.198.183.170** | Mar 11th 13:53:43 | <https://www.google.com> | Mozilla/5.0 (Windows NT 6.1; WOW64; rv:43.0) Gecko/20100101 Firefox/43.0 |

3/13/2016 - Brevard, North Carolina – Three days later, at my cabin an old red pickup truck from South Carolina kept driving in and leaving, only to return. The driver brandished a handgun out his window. I walked out onto my front porch and sat down. To entice him to come up to me, or take a shot at me. A neighbor watching this unfold grabbed his assault rifle causing the driver to flee at a high rate of speed. I do not know who sent the lone gunman, nor if his mission was only to frighten me or actually murder me?



3/18/2016 - Washington, DC - On March 18th, petition vote day, whatever the remaining eight (8) justices discussed and decided, it resulted in the clerk completely removing from the docket the entry stating it would be voted upon that day. The Supreme Court did not deny or approve my petition; they just made the entry disappear from the docket. Days later a new entry was posted to the docket.

3/23/2016 - Washington, DC - New entry posted at Supreme Court "DISTRIBUTED for Conference of April 15, 2016." Apparently, the justices needed more time, another month. Torture was coming to a decision point, plans required timing.

What occurred during this delay, gave away the need. President Obama made the decision to allow *Salim v. Mitchell* to move forward in the courts, and not dismissed by blocking altogether, as had been the hardline prior.

3/23/2016 - Washington, DC - Same day as above, the FBI in Washington, DC visited "davidbardes.com" coming from Google.com.

HomePage | **199.116.175.116** | Mar 23rd 07:20:06 |
http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=11&ved=0ahUKEwjGxaergNfLAhUCWj4KHR-CZEqFghEMao&url=http%3A%2F%2Fdavidbardes.com%2F&usg=AFQjCNEsTp1aN_I0uElpYdTnzhExz3iJCw&sig2=w71Qp411_-QJGsYWRHgtLQ | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |

4/8/2016 - Seattle, Washington - *Salim v. Mitchell* - "Statement of Interest" filed by The United States of America. The Obama Administration was NOT going to intervene in preventing the cold cell torture case from moving forward in the courts. This marked a complete reversal from prior hardline practice.

A Boston Globe article^{l6l} titled "A key shift on shielding torture from lawsuits" by Dror Ladin, the lawyer for the ACLU, wrote of the unusual change in long term Obama policy of torture lawsuit dismissals:

"While President Obama acted quickly to dismantle the CIA's torture program when he took office, his administration has consistently shut the courthouse doors to the victims. But a recent government filing in a lawsuit against the two psychologists who designed the torture program — and profited enormously from it — suggests that this policy may finally be changing. For the first time, the government will not try preemptively to shut down accountability for those legally responsible for torture. As a result, in another first, on Friday [4/22/2016] those responsible for devising the CIA's torture program will have to answer for their actions in a federal courtroom...

And, for the first time, the government isn't standing in the way. Instead, the government has suggested that the case against the torture profiteers can go forward, as long as certain information remains off-limits. This retreat from excessive secrecy, even if partial, is long overdue. For years, victims of torture have been prevented from telling their stories in court [all torture lawsuits instantly dismissed], even as their mistreatment has been a matter of public knowledge and debate."

President Obama's abrupt reversal in protecting torturers, paved the way for the courts to either follow suit, or continue to dismiss. But it was my case, *Bardes v. Auld*, that was coming up for a vote before the Supreme Court, creating the decision point on the court's overall continuation of TortureGate.

4/9/2016 – Kennebunkport, Maine - George Walker Bush visits “coldcelltorture.com” having come from Google.

SuicidePage | 76.179.73.240 | Apr 09th 17:48:58 | <https://www.google.com/> | Mozilla/5.0 (Windows NT 10.0; WOW64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/49.0.2623.110 Safari/537.36 |

4/9/2016 - Brevard, North Carolina – Same day as above, "Gidget Hall," a Secret Service agent according to her lapel pin, contacted me on Facebook. I assumed she worked for George Walker Bush. I did not respond. Seems George Walker Bush wanted to communicate with me?



4/9/2016 - Brevard, North Carolina – Same day as above, later that night...

At 9:02pm that night, two trucks and a sedan came to Rainbow Lake and parked around the circle in front of my cabin. They honked their horns, and flashed their lights. One guy got out of his truck and stood in the beams of his headlights. They were beckoning me to come outside onto my porch like I did before. But the dark could have hidden a rifle and scope in the sedan, so I did not step outside. After twelve minutes they left. I do not know who sent them. But deductive reasoning would indicate George Walker Bush sent them after Gidget Hall failed?



4/15/2016 - Washington, DC - Supreme Court petition vote day. According to SCOTUSblog, the justices canceled their entire day's normal voting routine and spent the whole day working on one important case. All cases to have been voted on that day were moved to the next conference date. Except for my petition. My petition was the only one voted on and denied that day.

4/18/2016 - Washington, DC - Supreme Court Bardes “PETITION Denied.”

The justices, however, voted to end the practice of instantly dismissing torture lawsuits. Hours later came the first cold cell torture lawsuit NOT to be dismissed. The TortureGate Corruption Scandal had ended.

4/22/2016 - Seattle, Washington - *Salim v. Mitchell* hearing day - hearing on motion to dismiss (cold cell torture case against the two CIA torture doctors.) In what became the first cold cell torture lawsuit NOT to be dismissed, the federal judge further on 4/28/2016, ordered a full denial of the motion to dismiss. In what shocked not just the legal community,^[7] but the whole world, someone would finally be held accountable for torture in a court of law.

(Despite further efforts to dismiss by the torture doctors, the federal judge forced the case to trial. The two CIA cold cell torture doctors settled the case one day before trial was to begin.)

5/12/2016 – Kennebunkport, Maine – George Walker Bush visits “coldcelltorture.com” coming from Google.com.

ColdHomePage | [65.175.242.92](#) | May 12th 12:25:42 | <https://www.google.com/> | Mozilla/5.0 (Windows NT 6.0) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/32.0.1700.107 Safari/537.36 |
ListPage | [65.175.242.92](#) | May 12th 12:25:52 | <http://coldcelltorture.com/> | Mozilla/5.0 (Windows NT 6.0) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/32.0.1700.107 Safari/537.36 |

5/14/2016 – Kennebunkport, Maine – George Walker Bush visits along with someone from outside of Washington, DC. Both visited “coldcelltorture.com” coming from Google.com.

ColdHomePage | [107.77.66.97](#) | May 14th 12:51:44 | <https://www.google.com/> | Mozilla/5.0 (iPhone; CPU iPhone OS 9_3_1 like Mac OS X) AppleWebKit/601.1.46 (KHTML, like Gecko) Version/9.0 Mobile/13E238 Safari/601.1 |
ColdHomePage | [50.200.201.161](#) | May 14th 12:58:02 | <https://www.google.com/> | Mozilla/5.0 (Windows NT 6.1; WOW64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/50.0.2661.94 Safari/537.36 |

5/17/2016 – Washington, DC – Someone in Washington, DC visited “davidbardes.com” coming from Google.com. They visited the page with the pictures from my 2 World Trade office.

HomePage | [209.144.137.5](#) | May 17th 10:03:04 | http://www.google.com/url?sa=t&rc=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiJ8bm1y-HMAhVGSiYKHRGPCV8QFgqeMAA&url=http%3A%2F%2F%2Fdavidbardes.com%2F&usq=AFQjCNEsTp1aN_I0uElpYdTnzhExz3iJCw&bvm=bv.122129774,d.dmo | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |
PicturesPage | [209.144.137.5](#) | May 17th 10:03:08 | <http://davidbardes.com/> | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |
HomePage | [209.144.137.5](#) | May 17th 10:06:38 | <http://davidbardes.com/pictures.php> | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |
ContactMePage | [209.144.137.5](#) | May 17th 10:06:46 | <http://davidbardes.com/index.php> | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |
PicturesPage | [209.144.137.5](#) | May 17th 10:06:47 | <http://davidbardes.com/contactme.php> | Mozilla/5.0 (Windows NT 6.1; WOW64; Trident/7.0; rv:11.0) like Gecko |

5/31/2016 - South Carolina - The next judge to rule against cold cell torture was South Carolina State Judge Baxley. In a case he called "the most troubling" of his career, Judge Baxley ruled against his state, settling an 11-year-old class action cold cell torture lawsuit.¹⁸¹ Where inmate **Jerome Laudman** was stripped naked and locked in a suicide watch cold cell, and violently shivered to death over eleven (11) days.

A 6/3/2016 Post and Courier article ¹⁹¹ stated:

COLUMBIA, S.C. — State prison officials and mental health advocates have settled a landmark lawsuit following the death of a mentally ill inmate who died after being kept in solitary confinement for 11 days while he was naked and cold.

The Greenville News reported Wednesday that if the lawsuit is approved by the court, the agreement would end a class-action lawsuit on behalf of inmates by Protection and Advocacy

for People with Disabilities, Inc. against the South Carolina Department of Corrections and create an independent process to monitor a plan to “transform” how inmates with serious mental illnesses are treated.

Jerome Laudman died in isolation in 2008 from a heart attack and hypothermia after he appeared sick and stopped eating. The state eventually paid Laudman’s estate \$1.2 million to settle a lawsuit.

8/18/2016 - Los Angeles, California - An LA Times article published a photo that a federal judge finally agreed to release in a cold cell torture lawsuit of immigrants on our southern border. The picture depicts a large holding cell super chilled to frigid temperatures where the all-male victims are shivering under reflective mylar blankets handed out to feign concern. However, the federal judge refused to release the picture of women and children being tortured under the same conditions, citing the picture to inflammatory for release.

Images show miserable conditions at Border Patrol holding cells in Arizona

Published August 18, 2016 / Fox News Latino



By 2022 - TortureGate may have ended, but cold cell torture did not.

While the dismissal of torture lawsuits ended, our nations use of cold cell torture has not. Following the end of TortureGate in 2016, there was a three-to-four-year period without any inmate deaths by hypothermia. But in 2019 one inmate was frozen to death. By 2022, two inmates a year were being frozen to death. And no one will do anything.

For more information see ColdCellTorture.com.

FOOTNOTES

[1] - See US Senate Report on CIA Torture, published 12/9/2014.

[2] - Fourteen (14) Inmate deaths by hypothermia:

1. 2003 - Illinois - Charles Platcher - Died of hypothermia in suicide watch cold cell.
2. 2003 - Columbia, South Carolina - Bobby Ray Mott - Died of hypothermia in suicide watch cold cell.
3. 2006 - Miami, Florida - Willie Daniels - Died of hypothermia in suicide watch cold cell.
4. 2008 - South Carolina - Lee Prison - Jerome Laudman - Died of complications of hypothermia and sepsis.
5. 2012 - Pompano Beach, Florida - Raleigh Priestler - Died of a cumulative of hypothermia, pneumonia, dehydration, malnourishment, and a raging infection.
6. 2012 - California State Prison - Unknown Name Inmate - Inmate had repeated episodes of hypothermia in cold cell, last time killed him.
7. 2012 - Buffalo, New York - Daniel Pantera - Died of hypothermia in a solitary confinement cold cell.
8. 2014 - Detroit, Michigan - David Stojcevski - Stripped naked and locked in cold cell, died of contributions including hypothermia.
9. 2016 - Fort Wayne, Indiana - Jeremy Oswalt - Stripped naked and locked in cold cell, denied food and water, died of hypothermia, dehydration and lack of nutrition.
10. 2018 - Lake County, Illinois - Edward Robinson III - Mentally ill inmate shivered to death locked in punishment block cold cell died while nurses refused to help, death by hypothermia with core body temperature of 84 degrees.
11. 2019 - Joseph Hehrer - Mentally ill inmate died with body temperature of 93.6 degrees F.
12. 2021 - Marcus Morris - Mentally ill inmate died of hypothermia under the care of a nurse, who was fired.
13. 2022 - Jamal Crummel - 45-year-old Jamal Crummel shivered to death in a cell chilled to 62 degrees.
14. 2022 - James Carrell New - James Carrell New, 80, died on 2/19/2022 taken to the hospital for hypothermia with chest pain. He tested positive for COVID-19 a week earlier. The medical examiner declined to perform an autopsy.

[3] See 12/9/2014 MarshallProject.org "It's not the heat. Prison inmates are dying of the cold. Why?" by Alysia Santo.

[4] - 1/26/2016 - Bardes Supreme Court petition (15-983) docketed at the Supreme Court:

IN THE SUPREME COURT OF THE UNITED STATES

BARDES v. AULD

David A. BARDES,
Individually, as a taxpayer, Petitioner,
v.
L. Patrick AULD, Magistrate Judge,
Catherine C. EAGLES, District Judge,
Patrick Michael DUFFY, Senior U.S. District Judge,
Robert CARR, Ex-Magistrate Judge, in their Individual
and Official Capacities, The US Courts, The United
States of America, The US Department of Justice, John
and Jane Does,
Respondents.

On Petition For Writ Of Certiorari To The United States Court of Appeals for the Fourth Circuit (No. 15-2396)

PETITION FOR WRIT OF CERTIORARI

David Andrew Bardes, Pro Se
213 Rainbow Lake Drive
Brevard, North Carolina 28712
828-393-4599
davidbardes@davidbardes.com

Constitutional Question Presented:

Are citizens, being brutally tortured with hypothermia until dead a violation of the Constitution? Are citizens, being brutally tortured with hypothermia until almost dead a violation of the Constitution? Are citizens, being brutally tortured with hypothermia a violation of the Constitution? Does the Constitution exist?

List of Parties:

All parties at this time are captioned.

Opinions Below:

The United States Court of Appeals for the Fourth Circuit affirmed the district court's dismissal finding no errors on January 19, 2016, docket item 9 & 10 (No. 15-2396, 4th COA.)

The United States District Court case was timely filed under federal question with fee paid and instantly dismissed claiming legal frivolity on October 2, 2015, docket item 3 (1:15-cv-214-MR-DLH, Bardes v. Auld, Western District of North Carolina,) and denied a postjudicial motion on November 10, 2015, docket item 9.

Jurisdiction:

The United States Court of Appeals for the Fourth Circuit, ruled no errors in the district court on January 19, 2016.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

Constitutional Provisions Involved:

If the Constitution exists, then all of it and all law since signed.

Statement of the Case:

Why must stopping our beloved nation from brutally torturing and brutally torturing until dead, the citizens with slow brutal hypothermic torture be such a chore?

United States Appeals Court Judges Wynn, Agee, and Floyd now join those before in continuing the ongoing murders of citizens.

Are not salaries being paid to prevent me from becoming a victim barely survived and having to do my civic duty by being here today? To stop it. Stop it.

We are doing ISIS like things to our own people, crucifixion is a hypothermic death, ask ISIS. Stop it.

Stop it. Please. Now.

I restate my Complaint (doc. 1) Post-Judicial Motion (doc. 5) and Appeal Informal Brief (doc. 2), and now additionally apply to United States Appeals Court Judges Wynn, Agee, and Floyd.

Reasons for Granting the Petition and Conclusion:

Perhaps never before has a more important Constitutional question been asked of the United States Supreme Court, as now the continued existence of our great nation as such lies in your answer or silence.

Submitted day 21, January 2016, by

X _____

David Andrew Bardes, *Pro Se*

[5] - National Lawyers Guild Calls Upon Justice Antonin Scalia to Recuse Himself from Interrogation- Related Cases

For Immediate Release: February 15, 2008

Contacts:

Marjorie Cohn, NLG President, marjorie@tjsl.edu, 619-374-6923

Heidi Boghosian, NLG Executive Director, director@nlg.org, 212-679-5100, ext. 11

National Lawyers Guild Calls Upon Justice Antonin Scalia to Recuse Himself from Interrogation- Related Cases

2008 Prison Legal News

New York, New York, USA -- Friday, February 15, 2008-- The National Lawyers Guild (NLG) has called upon US Supreme Court Justice Antonin Scalia to recuse himself from any case coming before the Court involving the constitutionality of torture as an interrogation technique.

In a BBC interview that aired on Tuesday, Scalia defended the use of torture to extract information from persons in custody by law enforcement officials. in some cases. Although no case involving the use of torture is currently before the Court, recent events suggest that such a case may be forthcoming.

In comments, NLG President Marjorie Cohn said: The Guild is appalled that a sitting Justice of the United States Supreme Court has ventured in a public forum his belief that it is justifiable to attempt to extract information from persons in custody by the use of torture. A justice of the highest court in the land, sworn to uphold the Constitution, whose views so undermine the fundamental right of security of the person guaranteed by the Bill of Rights, is unfit to sit on that Court.

An NLG press release today added "The thrust of Scalia's recent remarks is that he does not believe it is clear that the government is precluded from using coercive interrogation to prevent an imminent terrorist attack. He says that the Constitution forbids cruel and unusual punishment, ut if torture is not meant as punishment, it may not be unconstitutional. Surely Justice Scalia knows that torture is unlawful under the U.S. Torture Statute (18 USC 2340) and the U.S. War Crimes Act (18 USC 2441)."

Two years ago, five retired U.S. military officers who had entered a case before the Supreme Court for Salim Ahmed Hamdan sought Scalia's recusal after he publicly voiced skepticism about the rights of Guantanamo detainees. Scalia declined to recuse himself.

Heidi Boghosian, NLG Executive Director, said: "Justice Scalia's remarks inevitably pre-judge the issues in every case in which the Constitution might dictate suppression of evidence because of illegal police interrogation techniques, or the right to compensation of a person subjected to a violation of civil rights. We therefore call upon Justice Scalia to recuse himself from any case which comes before the Court in which such issues are at stake.

Founded in 1937 as an alternative to the American Bar Association, which at the time did not admit people of color, the National Lawyers Guild is the oldest and largest public interest and human rights bar organization in the United States. With headquarters in New York, it has chapters in every state.

<http://www.nlg.org>

[6] April 19, 2016 Boston Globe article "A key shift on shielding torture from lawsuits" written by the lead attorney at the ACLU regarding the reversal of the Obama administration shielding torture from lawsuits.

OPINION | DROR LADIN

A key shift on shielding torture from lawsuits

By Dror Ladin

April 19, 2016, 9:25 p.m.

Boston Globe

While President Obama acted quickly to dismantle the CIA's torture program when he took office, his administration has consistently shut the courthouse doors to the victims. But a recent government filing in a lawsuit against the two psychologists who designed the torture program — and profited enormously from it — suggests that this policy may finally be changing. For the first time, the government will not try preemptively to shut down accountability for those legally responsible for torture. As a result, in another first, on Friday those responsible for devising the CIA's torture program will have to answer for their actions in a federal courtroom.

Both the Bush and Obama administrations have consistently used claims of secrecy to shield from accountability the people who oversaw the CIA's torture program. In every case brought by victims, government lawyers demanded that the victims' claims be dismissed at the outset so as not to expose "state secrets." As a senator and candidate, Obama criticized the Bush administration's use of secrecy to block lawsuits. But to the dismay of many, Obama's Department of Justice carried on the same policies.

The government's cynical use of secrecy has been devastatingly effective. Even after the details of CIA torture were splashed across the front pages of newspapers worldwide, courts uniformly gave in to administration claims that torture was too secret for the legal system. Despite numerous lawsuits, not a single victim has yet had his claims considered by a US court.

At a court hearing on Friday, that dismal record will begin to change. A federal judge in Spokane, Wash., will consider a lawsuit brought by Suleiman Abdullah Salim, Mohamed Ahmed Ben Soud, and the family of Gul Rahman over the torture the three endured in a secret CIA prison. In accordance with detailed protocols that two CIA-contracted psychologists based on experiments conducted on dogs, the men were confined in dungeons, hung by their arms from the ceiling for days, stuffed into coffin-like boxes, and kept naked, degraded, and starved. Their lawsuit, *Salim v. Mitchell*, seeks to hold accountable James Mitchell and John “Bruce” Jessen, the psychologists who designed and helped implement the systemic abuse of CIA prisoners, pocketing millions of dollars for their work.

And, for the first time, the government isn’t standing in the way. Instead, the government has suggested that the case against the torture profiteers can go forward, as long as certain information remains off-limits. This retreat from excessive secrecy, even if partial, is long overdue. For years, victims of torture have been prevented from telling their stories in court, even as their mistreatment has been a matter of public knowledge and debate.

While Mitchell and Jessen’s company raked in \$81 million in taxpayer money, their victims were left to suffer in silence. Salim and Ben Soud still endure physical pain and deep mental scars from the trauma of their prolonged torture. According to an autopsy and investigation conducted by the CIA, Rahman died under torture. He succumbed to hypothermia in his cell after being beaten, starved, deprived of water, and chained overnight in a contorted position — naked from the waist down — on a cold concrete floor. The government never informed his family about what became of him, or even of his death. His body has never been returned to his family for burial.

Government misuse of secrecy didn’t just compound the trauma the CIA inflicted on torture victims, it also allowed the agency to manipulate lawmakers and the public. Even as government lawyers claimed in court that the torture program was secret, the CIA was itself selectively leaking misleading information as part of a PR effort to sell Americans on an unlawful and universally condemned practice. At the same time that torture was officially too secret to discuss in court, the CIA enlisted the filmmakers behind “Zero Dark Thirty” to tell the agency’s version in cinemas around the country.

The Obama administration’s welcome turnaround on secrecy is the apparent result of the public release of the Senate Intelligence Committee’s exhaustive study on CIA torture. The CIA fought for years to block the public release of the report, warning that violence throughout the world would follow any exposure of the CIA’s wrongdoing. While that dire prediction failed to materialize, the release has had one very significant effect: It is now untenable for the government to claim that CIA torture is a state secret.

On Friday, a federal judge will hear Mitchell and Jessen’s arguments that the case against them should be dismissed. Their attorneys will argue that torture is a “political decision” that can’t be evaluated by courts, and that federal contractors are immune from liability. But one argument they will no longer be able to make is that torture is too secret for courts to handle. On the road toward accountability, that’s a critical — and long overdue — step.

Dror Ladin is a staff attorney with the American Civil Liberties Union. He represents the plaintiffs in *Salim v. Mitchell*.

[7] - Democracy Now's May 6, 2016 interview with the ACLU lead attorney Dror Ladin, on the landmark reversal from dismissing torture lawsuits.

<http://democracynow.org> - A federal judge has allowed a landmark lawsuit to proceed against two psychologists who designed and implemented the CIA’s torture program. Psychologists James Mitchell and Bruce Jessen reaped more than \$80 million for designing torture techniques used by the agency. The case was brought by Suleiman Abdullah Salim and Mohamed Ben Soud, two survivors of the program, along with the family of Gul Rahman, who froze to death at a CIA black site in Afghanistan. All three men were subjected to torture techniques that Mitchell and Jessen created and helped implement, including beatings, being held in coffin-sized boxes and being hung from metal rods. We speak with ACLU lawyer Dror Ladin, who filed a lawsuit on behalf of torture victims, and with former intelligence officer Col. Steven Kleinman, who knew psychologists Mitchell and Jessen from his time at the SERE school in Spokane. SERE—Survival, Evasion, Resistance, Escape—is a secretive program which teaches soldiers to endure captivity in enemy hands. Mitchell and Jessen reverse-engineered the tactics taught in SERE training for use on prisoners held in the CIA’s secret prisons.

https://www.democracynow.org/2016/5/6/after_a_landmark_legal_ruling_will

After a Landmark Legal Ruling, Will CIA Torture Victims Finally Have Their Day in Court?
May 06, 2016

Guests

Dror Ladin, staff attorney at the ACLU National Security Project.

Steven Kleinman, retired colonel and former military intelligence officer. He knew James Mitchell and Bruce Jessen at the

SERE school in Spokane.

A federal judge has allowed a landmark lawsuit to proceed against two psychologists who designed and implemented the CIA's torture program. Psychologists James Mitchell and Bruce Jessen reaped more than \$80 million for designing torture techniques used by the agency. The case was brought by Suleiman Abdullah Salim and Mohamed Ben Soud, two survivors of the program, along with the family of Gul Rahman, who froze to death at a CIA black site in Afghanistan. All three men were subjected to torture techniques that Mitchell and Jessen created and helped implement, including beatings, being held in coffin-sized boxes and being hung from metal rods. We speak with ACLU lawyer Dror Ladin, who filed a lawsuit on behalf of torture victims, and with former intelligence officer Col. Steven Kleinman, who knew psychologists Mitchell and Jessen from his time at the SERE school in Spokane. SERE—Survival, Evasion, Resistance, Escape—is a secretive program which teaches soldiers to endure captivity in enemy hands. Mitchell and Jessen reverse-engineered the tactics taught in SERE training for use on prisoners held in the CIA's secret prisons.

Transcript

This is a rush transcript. Copy may not be in its final form.

AMY GOODMAN: This is Democracy Now!, democracynow.org, The War and Peace Report. I'm Amy Goodman. We're on the road, broadcasting from the television studios of Bellevue College, just outside Seattle, Bellevue College, home of community radio station KBCS, as well.

Well, here in Washington state last month, Federal Judge Justin Quackenbush allowed a landmark lawsuit to move forward against the two psychologists who designed and implemented the CIA's torture program. Psychologists James Mitchell and Bruce Jessen reaped more than \$80 million for designing the torture techniques used by the CIA. The case was brought by Suleiman Abdullah Salim and Mohamed Ben Soud, two survivors of the CIA program, along with the family of Gul Rahman, who froze to death at a CIA black site in Afghanistan. All three men were subjected to torture techniques that Mitchell and Jessen created and helped implement for the CIA. Among the torture techniques were beatings, being held in coffin-sized boxes and being hung from metal rods.

This is Suleiman Abdullah Salim speaking to the ACLU about the long-term impacts of the torture he endured.

SULEIMAN ABDULLAH SALIM: Every time I think of prison, flashback come. I can't sleep. I can't eat. I can't smell. Flashback come. Flashback come many time, you know. So much it makes you crazy. I'm in so much pain. I don't understand anything. I have headache. Too much headache. I want to vomit. I'm innocent. Why they beat like that?

AMY GOODMAN: That's torture victim and plaintiff Suleiman Abdullah Salim speaking to the ACLU. The headquarters of the psychologists' secretive military contracting firm, Mitchell Jessen and Associates, was headquartered here in Washington state near the Fairchild Air Force Base in Spokane. Beginning in 2002, the CIA hired the psychologists to train interrogators in brutal techniques, including waterboarding, sleep deprivation and pain. Both of the men had years of military training in a secretive program known as SERE. That's SERE—Survival, Evasion, Resistance, Escape—which teaches soldiers to endure captivity in enemy hands. Mitchell and Jessen reverse-engineered the SERE tactics for use on prisoners held in the CIA secret prisons.

For more, we're joined in New York by ACLU lawyer Dror Ladin, who has filed suit on behalf of torture victims. And in Santa Barbara, California, we're joined by former intelligence officer, Colonel Steve Kleinman, who knew psychologists James Mitchell and Bruce Jessen from his time at the SERE school in Spokane. He worked with them.

We welcome you both to Democracy Now! I want to go first to Dror in New York. Explain the significance of this lawsuit and the judge's ruling.

DROR LADIN: In every previous CIA lawsuit involving the CIA's torture program, the government had always intervened, even before the suit got underway, to shut it down. They had always claimed that no matter how much information had previously been made public about CIA torture, that it was just too secret for courts to handle. This lawsuit, that didn't happen.

So this is the first lawsuit that was filed after the Senate released its torture report, in which the Senate Subcommittee on Intelligence exposed an enormous amount of information about the CIA's torture program. And after that came out, our clients decided that they could finally try to seek justice for what was done to them. And so, this report both disclosed the torture of our clients as well as describing the role of Mitchell and Jessen in designing and implementing and profiting from their pain.

And amazingly, in this lawsuit, the government did not try to shut it down, which meant that Mitchell and Jessen were the ones who had to try and shut it down. And so, we were in court two weeks ago to hear argument about Mitchell and Jessen's attempt to get the case dismissed. And in the first time ever, the district judge, Judge Quackenbush, denied entirely the defendants' motion to dismiss, and the case is moving forward to discovery, which has never happened before.

A federal judge has allowed a landmark lawsuit to proceed against two psychologists who designed and implemented the CIA's torture program. Psychologists James Mitchell and Bruce Jessen reaped more than \$80 million for designing torture techniques used by the agency. The case was brought by Suleiman Abdullah Salim and Mohamed Ben Soud, two survivors of the program, along with the family of Gul Rahman, who froze to death at a CIA black site in Afghanistan. All three men were subjected to torture techniques that Mitchell and Jessen created and helped implement, including beatings, being held in coffin-sized boxes and being hung from metal rods. We speak with ACLU lawyer Dror Ladin, who filed a lawsuit on behalf of torture victims, and with former intelligence officer Col. Steven Kleinman, who knew psychologists Mitchell and Jessen from his time at the SERE school in Spokane. SERE—Survival, Evasion, Resistance, Escape—is a secretive program which teaches soldiers to endure captivity in enemy hands. Mitchell and Jessen reverse-engineered the tactics taught in SERE training for use on prisoners held in the CIA's secret prisons.

AMY GOODMAN: And explain who the plaintiffs are, Dror.

DROR LADIN: So, there's Suleiman Abdullah Salim. He is a Tanzanian fisherman. He lives in Zanzibar. He never—not only did he never pose a threat to the United States, you don't even have to take our word for it, because the Department of Defense gave him a certificate, after he had been held for five years, after he had been tortured. And the certificate said that Mr. Salim does not pose a threat to U.S. forces or interests. But even so, you know, they destroyed his life with torture. And he is now living in Zanzibar with his wife and child.

The second plaintiff is Mohamed Ahmed Ben Soud. He is a marble worker in Libya. He also never posed any threat to the United States, and he was never charged with any crime.

Unfortunately, the third plaintiff, it's his family that's the plaintiff, because Gul Rahman was killed during his torture, so he never got to go home and try to rebuild his life. He froze to death on a bare floor. After he had been tortured for days, he finally succumbed to hypothermia. And all of that is detailed in the Senate report.

AMY GOODMAN: Steven Kleinman, Colonel Steven Kleinman, former military intelligence officer, you worked with Mitchell and Jessen at the SERE school here in Washington state in Spokane. Can you explain who they were and what your interactions were with them?

STEVEN KLEINMAN: I'd be happy to. And this may come as a surprise to most of your listeners, because it's easy to really portray this as some Greek tragedy where there's evil spirits moving across this geopolitical landscape, when in fact both retired lieutenant colonels, Bruce Jessen and Jim Mitchell, they were instrumental in creating arguably the best resistance-to-interrogation program in the world. And they were motivated by the mission of returning with honor. You mentioned earlier, in the introduction, about they ultimately then reverse-engineered. And, see, that's where the problem lies. It's not really a reverse-engineering, because what we do at a SERE school, what we portray is what was called a communist interrogation model. And again, Bruce Jessen and Jim Mitchell were instrumental in developing—deconstructing what went on in the most brutal, austere circumstances, and then helping to design strategies to resist. And that's—but that's the extent—although it's very important, that's the extent of their experience.

The problem is, they are two very bright individuals and, again, decorated veterans of the United States Air Force, but what they didn't understand was they were not interrogators. They had never observed a real-world interrogation. They weren't involved with intelligence operations. They weren't involved with Islamic or Arabic or Middle Eastern cultural issues. But they found themselves, by the approval, literally, of the director of central intelligence, in the middle of a—what I describe as a torture program, without hesitation. So it's interesting. If their story had ended upon their retirement from the Air Force, I think we would sing them as heroes, rightfully so. But they—I'm not going to question their intentions. I mean, I'm quite certain they thought they were going to keep America safe. But their methods, as just been described by your first guest, were brutal and heinous, inexcusable. And above all that, they're not effective in terms of eliciting useful information from detainees.

AMY GOODMAN: I wanted to turn to VICE News in 2014. James Mitchell was interviewed and asked if the CIA's so-called enhanced interrogation techniques, or EIT, were designed to get actionable intelligence. This was his response.

JAMES MITCHELL: It was to facilitate getting actionable intelligence by making a bad cop, that was bad enough that the person would engage with a good cop. I would be stunned if they found any kind of evidence to suggest that EITs, as they were being applied, yielded actionable intelligence.

AMY GOODMAN: That was—that was Jessen [sic] speaking to VICE News. That was Mitchell speaking to VICE News. I want to go to the second part of that clip.

JAMES MITCHELL: To me, it seems completely insensible that slapping KSM is bad, but sending a Hellfire missile into a family's picnic and killing all the children and, you know, killing Granny and killing everyone is OK, for a lot of reasons. One of the reasons is: What about that collateral loss of life? And the other is, is that if you kill them, you can't question them.

AMY GOODMAN: That's James Mitchell. Can you respond to that, Dror Ladin?

DROR LADIN: What you have there is an admission that all they were doing was trying—you know, for all the scientific language it was all dressed up in, with learned helplessness and experiments that go back decades, really all it was about inflicting an enormous amount of pain on people, with the idea that if you abuse them enough and you broke them down enough, they'd do whatever you wanted. And, you know, whether you're talking about a bad cop in a Chicago PD basement or whether you're talking about a secret black site, that's what this was. It was hurting people so much that they would do whatever you told them to do. You know between that and—I don't think it exonerates, you know, Mitchell's program in any way to say that drone strikes are also bad. Drone strikes are—you know, that kill innocent people, are—of course they're bad. But that doesn't make torture good.

AMY GOODMAN: Colonel Steven Kleinman, were you always against torture?

STEVEN KLEINMAN: Absolutely, absolutely. I mean, I have a moral code. I'm a second-generation military officer. My father was a principled World War II vet. He taught me how to sort out life.

And torture—let's look at it from a couple different perspectives. Let's say, in fact, I had no moral compass whatsoever, and I was just an intelligence officer interested in getting reliable information as quickly as possible. Even then, torture would not even be an option, because we can demonstrate over and over again how pain, how physical, psychological, emotional pain inflicted on another person, will lead to a degradation of their—what we call executive functions, what behavioral scientists refer to it—I mean, memory, judgment, decisions, the ability to follow logical thought. And the early—the early pioneers, if you will, who studied some of the most horrific forms of interrogation, after the Korean War and so forth, Albert Biderman and others, they were shocked, I mean, literally, by their own writings, shocked at how quickly things like isolation, sensory deprivation could undermine—could introduce psychoses, and thereby undermine really the validity of a detainee as a reporter. I mean, you can't accept the fact that—you can't cherry-pick, if they provide bits of information to be true and you have to find it within fanciful recalls of things that were generated by—again, by isolation and so forth. So, torture—

AMY GOODMAN: Before we run out of time—

STEVEN KLEINMAN: Go ahead.

AMY GOODMAN: I want to just ask you: Do you think it's enough to hold Mitchell and Jessen accountable, these two psychologists?

STEVEN KLEINMAN: Absolutely, absolutely not. You know, I'm not going to defend for a moment what they did, but what I will defend is, they did not—they did not create policy in this country. We have a gentleman, Director Tenet, George Tenet, of the CIA. Why didn't he say, "Wait a second, you're proposing a program for which we have no data to support it, and you have no experience in interrogation"? So, there are people so far above doctors Jessen and Mitchell who made this possible, and without them being held accountable, if we're giving them, in fact, Medals of Freedom to move on to their life, it's a travesty, I think.

AMY GOODMAN: We're going to have to leave it there. Colonel Steven Kleinman, former military intelligence officer, who trained in interrogation, trained soldiers in interrogation. And I want to thank Dror Ladin of the ACLU.

And that does it for this program. I'll be speaking tonight at Seattle Town Hall at 7:30; Saturday at Mount Vernon at noon at the Lincoln Theatre; Sunday in Eugene, Oregon, University of Oregon, and in Portland at 7:30 at the Aladdin Theater. You can go to our website at democracynow.org.

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[8] - Settlement in 11-Year Lawsuit Promises Relief from Abuse for Mentally Ill in South Carolina's Prisons

<https://solitarywatch.org/2016/06/10/settlement-in-11-year-lawsuit-promises-relief-from-abuse-for-mentally-ill-in-south-carolinas-prisons/>

by Sarah Blatt-Herold | June 10, 2016

On May 31, 2016, a settlement was released in the longstanding class-action lawsuit between South Carolina-based Protection and Advocacy for People with Disabilities Inc (P&A) and the South Carolina Department of Corrections. If approved by a judge, the settlement would benefit the approximately 3,500 individuals with mental illness incarcerated in South Carolina. P&A and

SCDC jointly released a remedial plan that would bring an end to eleven years of fervent litigation.

The case began in 2005 when P&A filed suit against SCDC for its negligence in mental health treatment behind bars. In 2012 the case went to trial and Judge Michael Baxley heard testimony on behalf of those who had suffered—even died—in South Carolina prison cells.

One such story was that of Jerome Laudman, who in 2008 was found lying face-down in a pile of feces and vomit alongside moldy food trays. He was naked and unresponsive, and for eleven days guards refused to enter the cold, smelly cell. They later instructed two other prisoners to remove him, and he was transferred to a hospital where his body temperature indicated hypothermia. He died of a heart attack soon after. Laudman's story was one of many shared during the proceedings.

In 2014, Judge Baxley ruled in favor of the plaintiffs, stating that SCDC's negligence in providing mental health care was unconstitutional. He deemed South Carolina prison conditions cruel and unusual punishment and ordered SCDC to submit a remedial plan adhering to specific standards.

And now, two years later, that plan has been released.

Solitary Confinement and Neglect in South Carolina's Prisons

The 3,500 individuals suffering from mental illness in South Carolina's prisons are at a higher risk of being sent to solitary, and for longer durations. Jerome Laudman, when found facedown in his own feces shortly before his death, had just begun serving the first few of his 999 days in confinement. The average time spent in isolation for a mentally ill inmate is 647 days. The average time for a non-mentally ill inmate is 383 days. According to Judge Baxley's eventual ruling: "Of the ten longest periods of disciplinary detention sentences beyond projected release dates, nine of the inmates were mentally ill."

As the suit documented, solitary confinement cells in South Carolina are often freezing and filthy, with feces and blood coating the concrete floors and walls, leftover from previous occupants.

In South Carolina, disciplinary segregation has been used not only to punish prison rule violation, but as an abusive warehouse for the most severely mentally ill inmates, and as a form of retaliation. According to the New York Times, Jerome Laudman—schizophrenic and intellectually disabled—was not violent or threatening when guards isolated him. The videotape of his transfer, during which he was reportedly sprayed with chemicals and physically abused, is blank.

An article in the Atlantic notes that conditions in South Carolina prisons remarkably worsened in 1990 when Michael Moore, a prison administrator from Texas, moved to South Carolina and instituted drastic reforms, cutting psychiatrists' jobs and mental health care programming. When he left in 1999, the measures were never reversed and conditions continued to worsen.

Until P&A sued the SCDC in 2005, no measures had been taken to reform prisons or increase mental health care for incarcerated individuals, despite the state's knowledge of its fatal practices.

The Abuses Go on Trial

The lawsuit, officially filed in 2005—although first brought to a law firm in 2002—went to trial in 2012. The plaintiffs produced expert witness testimony, finding that incarcerated individuals suffering from mental illness "were almost twice as likely as other prisoners to go to solitary."

They also shared the stories of those who had suffered harm in South Carolina prisons. Correctional officers used force against mentally ill James Howard eighty-one different times. After Baxter Vinson cut himself in the abdomen, staff tied him to a restraint chair for two hours instead of taking him to a hospital. Video footage shows his intestine protruding and staff tightening the restraints around his abdomen. After restraining mentally ill Shawn Wiles in a twisted position and soaking him with water, officers then left Wiles outside in the cold for an hour. Some were tied up in an uncomfortable position called "the crucifix," while others were left unsupervised and committed suicide.

The attorneys representing SCDC argued that stories such as these were mere outliers and not representative of mental health care in the South Carolina prison system. Additionally, they contended "that the court did not have the authority to tell the state prison system what to do."

P&A argued that SCDC was exposing incarcerated individuals to cruel and unusual punishment, was aware of this reality, and had done nothing to prevent this treatment.

After two years in trial, Judge Baxley sided with the plaintiffs. In doing so, Judge Baxley did more than assert the unconstitutionality of South Carolina prisons; he shed light on the sheer immorality of the SCDC's actions. Of his 70,000 cases

during 14 years on the bench, Baxley said, he found this case “the most troubling.”

Judge Baxley wrote, “If 17 percent of the prison population had advanced cancer and there was inadequate and in some cases nonexistent treatment for cancer in prison, the public would be outraged. Yet this is the case for serious mental illness.”

The judge based his review of the South Carolina prison system on six criteria that he orders the SCDC to include in its remedial plan: a systematic program for identifying those in need of mental health care, comprehensive mental health treatment that prohibits inappropriate segregation for mentally ill inmates, employment of a sufficient number of mental health professionals, maintenance of mental health treatment records, supervised administration of medication and periodic evaluation, and a program for individuals at risk of suicide.

In his ruling, Judge Baxley wrote, “from 1999 until the filing of this action in 2005, SCDC did virtually nothing to address, much less eliminate, the substantial risks of serious harm to which class members were exposed.” He calls the SCDC’s actions “deliberate indifference.” For more than ten years they knew and did nothing.

Rejecting SCDC’s claim that the stories shared throughout the trial are anecdotal outliers, Judge Baxley asserted that these incidents “are the result of a system that is inherently flawed in many respects, understaffed, underfunded, and inadequate.”

Eight years into litigation, Baxley condemned SCDC for fighting this case “tooth and nail.” In his conclusion, he noted that “justice in this case is not really about who wins or loses this lawsuit.”

Details of the Settlement

On May 31, P&A and the SCDC released a mutual settlement that awaits a judge’s approval. If approved, it marks the end of eleven years of battle over mental health care in South Carolina prisons.

The implementation of the remedial plan would be a collaborative effort between the groups, providing the plaintiffs “the opportunity to review, comment on, and if necessary, mediate or arbitrate [. . .] acts or omissions.” The settlement calls for an independent process that will monitor the implementation of the plan, which is expected to take place over the course of several years and adhere to specific directives such as hiring staff, renovating facilities, and providing specific mental health care services outlined in the settlement.

Most notably, the settlement strives to meet the six criteria outlined in Judge Baxley’s ruling, such as proposing a program that identifies, treats and supervises individuals at risk of suicide and ending isolation for individuals suffering from mental health crises.

The settlement will cost SCDC a one-time sum of \$1.7 million and another \$7 million annually. But these costs may well be offset by a reduction in solitary confinement, which cost on average three times as much as general population housing. When Mississippi reduced its isolated population, “the state saved \$5 million in the process and violent incidents dropped.”

P&A Executive Director Gloria Prevost and SCDC Director Bryan Stirling agree that the settlement is an important milestone on the road to reform. Prevost credits the SCDC’s willingness to compromise to Governor Haley’s appointment of Stirling as Director.

Upon release of the settlement, Prevost called it “an historic day for justice.” Stirling commented that the settlement “marks the end of one chapter and the beginning of another,” initiating what he hopes will be a culture-change in the South Carolina prison system.

[9] Columbia, SC - Post and Courier article on the class action lawsuit of Laudman's hypothermic death.

<http://www.postandcourier.com/20160603/160609808/landmark-lawsuit-settled-after-mentally-ill-inmates-death>

COLUMBIA, S.C. — State prison officials and mental health advocates have settled a landmark lawsuit following the death of a mentally ill inmate who died after being kept in solitary confinement for 11 days while he was naked and cold.

The Greenville News reported Wednesday that if the lawsuit is approved by the court, the agreement would end a class-action lawsuit on behalf of inmates by Protection and Advocacy for People with Disabilities, Inc. against the South Carolina Department of Corrections and create an independent process to monitor a plan to “transform” how inmates with serious mental illnesses are treated.

Jerome Laudman died in isolation in 2008 from a heart attack and hypothermia after he appeared sick and stopped eating. The state eventually paid Laudman’s estate \$1.2 million to settle a lawsuit.

(end)