



Written by [Thomas R. Eddlem](#) on November 12, 2012

Unhappy Veterans Day: Court Rules Veteran May Not Sue His Gov't Torturers

U.S. Navy Veteran Donald Vance and fellow FBI informant Nathan Ertel were not entitled to sue their U.S. government torturers, the U.S. Court of Appeals for the Seventh District [ruled](#) November 9. Both Vance and Ertel are native-born U.S. citizens.

As private contractors in Iraq in 2006, Vance and Ertel [witnessed](#) U.S. soldiers trading bullets for alcohol, and volunteered to become FBI undercover informants to stop the leak of weapons to the Taliban. But while in Iraq, the two men found that their cover had been blown, and were "rescued" by the U.S. military. But the U.S. military then arrested them, and threw them in Camp Cropper in Iraq, where they were tortured. For three months, Vance and Ertel underwent the [torture](#) of food deprivation (no food for days at a time), sensory deprivation (isolation), sensory overload (blasting music for days at a time) and walling (repeated slamming into walls when blindfolded). In addition, they were denied access to a lawyer, a *habeas corpus* hearing, and a trial. The innocent men were released after three months, but their government torturers were never prosecuted.



Vance and Ertel tried to sue then-Secretary of Defense Donald Rumsfeld, who had personally approved these torture methods. But the appellate court [ruled](#) November 9 that despite the fact that these were clearly torture methods approved all the way up the chain of command, "the secretary of defense has more than a million soldiers under his command.... People able to exert domination over others often abuse that power; it is a part of human nature that is very difficult to control."

The court decision overturned an earlier court ruling in 2011 that upheld the rights of Vance and Ertel to sue Rumsfeld on the grounds that "Today, the idea that a prisoner in a U.S. prison might be abused in such a manner and not have judicial recourse is unthinkable." Now, apparently, letting government officials get away with torture is quite "thinkable." The 2011 decision acknowledged that "If a prisoner in a U.S. prison had his head covered and was repeatedly "walled," or slammed into walls on the way to interrogation sessions, we would have no trouble acknowledging that his well-pled allegations, if true, would describe a violation of his constitutional rights."



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The Obama administration lied in its cover-up for the Bush administration torturers, claiming in its [brief](#) on the case that “This case does not concern the propriety of torture. In fact, torture is flatly illegal and the government has repudiated it in the strongest terms. Federal law makes it a criminal offense to engage in torture, to attempt to commit torture, or to conspire to commit torture outside the United States. See 18 U.S.C. § 2340A.” Despite these words, the Obama administration has yet to open the prosecution of a single torture case under the Bush administration, even among the ones where top officials openly admitted they authorized the [waterboarding torture](#).

Even in the cases where torture resulted in deaths in Afghanistan and Iraq, the Obama administration Justice Department dismissed prosecution investigations, [claiming back on August 30](#) that “the Department has declined prosecution because the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt.” Despite numerous examples of torture, Attorney General Eric Holder conceded he would end the last torture investigations.

“This was not about Rumsfeld at all,” Rumsfeld’s attorney David B. Rivkin [argued](#) in the press after the decision. “It was about future decision makers who need to be able to deal with national security issues ... without having to worry they will be sued for decisions they made after they leave office.”

But shouldn’t “future decision-makers” who decide to torture innocent American citizens be given cause to worry?

Photo of Donald Vance testifying before the Senate Democratic Policy Committee in 2007: AP Images



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