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## Justices Restore Suit Brought by Ex-Detainees Citing Torture

By [ADAM LIPTAK](#)

WASHINGTON — The [Supreme Court](#) on Monday revived a lawsuit brought by four former prisoners at Guantánamo Bay against [Donald H. Rumsfeld](#), the former defense secretary, and other officials. The former prisoners, all British citizens, say they were tortured and subjected to religious persecution.

In a brief [order](#), the justices instructed a federal appeals court to take a second look at the case in light of the Supreme Court's decision in June in [Boumediene v. Bush](#) granting Guantánamo prisoners the right to challenge their detention in federal court.

The appeals court, the United States Court of Appeals for the District of Columbia Circuit, [ruled](#) against the men in January, saying that neither the Constitution nor a federal law protecting religious freedom gave them the right to sue in American courts.

In urging the Supreme Court not to hear the case, the Justice Department said the Boumediene decision “did not overturn the court's prior rulings that the individual-rights provisions of the Constitution run only to aliens who have a substantial connection to our country and not to enemy combatants who are detained abroad.”

The summary procedure the Supreme Court used here — granting the petition seeking review, vacating the decision below and sending the case back for reconsideration — is a common way for it to deal with lower-court decisions made before arguably relevant Supreme Court rulings. The order in the case, *Rasul v. Myers*, No. 08-235, thus says little or nothing about justices' views on the merits.

In a second order on Monday, the court let stand the dismissal of a libel suit against The New York Times brought by [Steven J. Hatfill](#), a former government scientist who says he was defamed by a series of Op-Ed columns concerning the deadly anthrax mailings of 2001.

The Justice Department, which had once called Dr. Hatfill “a person of interest” in its investigation, paid him \$4.6 million to settle a privacy lawsuit and formally exonerated him this year. The government says [Bruce E. Ivins](#), a scientist who committed suicide in July, was responsible for the mailings

The Times columns, by Nicholas D. Kristof, said a government scientist whom Mr. Kristof at first called Mr. Z warranted closer scrutiny. In August 2002, after Dr. Hatfill came forward to hold a news conference, Mr. Kristof identified him as Mr. Z. In his libel suit, Dr. Hatfill said he had been identifiable in and defamed by all the columns.

Christopher J. Wright, a lawyer for Dr. Hatfill, expressed disappointment in the court's decision in the case, *Hatfill v. New York Times*, No. 08-483. “We believe The Times played a major role in leading millions of

people to mistakenly believe that Dr. Hatfill was the anthrax murderer,” Mr. Wright said.

In a column in August, Mr. Kristof apologized to Dr. Hatfill. “I managed to afflict the afflicted,” Mr. Kristof wrote.

David E. McCraw, a lawyer for The Times, called the appeals court’s decision dismissing the case “an important reaffirmation of Times v. Sullivan,” the seminal 1964 Supreme Court decision that placed constitutional limits on libel suits. That decision, Mr. McCraw said, “is designed to encourage the press to report aggressively on matters of public concern.”

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