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Supreme Court Denies Request to Hear Lawsuit by Victims of CIA Extraordinary Rendition Program

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ACLU Says Government Improperly Using "State Secrets" Privilege to Avoid Judicial Review

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CONTACT: (212) 549-2666; media@aclu.org

NEW YORK – The U.S. Supreme Court today announced it would not hear a lawsuit filed by the American Civil Liberties Union on behalf of five men who were kidnapped by the CIA, sent to U.S.-run prisons overseas and tortured as part of the Bush administration's "extraordinary rendition" program. The ACLU and the ACLU of Northern California sued Boeing subsidiary Jeppesen Dataplan in May 2007, charging that the company knowingly provided direct logistical support to the aircraft and crews used by the CIA for the program. Although the federal government was not named in the lawsuit, it intervened for the sole purpose of claiming that the case should be dismissed on the basis of the "state secrets" privilege, an argument that the U.S. Court of Appeals for the Ninth Circuit accepted by a 6 to 5 vote in September 2010.

"With today's decision, the Supreme Court has refused once again to give justice to torture victims and to restore our nation's reputation as a guardian of human rights and the rule of law," said Ben Wizner, litigation director of the ACLU National Security Project, who argued the case before the appeals court. "To date, every victim of the Bush administration's torture regime has been denied his day in court. But while the torture architects and their enablers have escaped the judgment of the courts, they will not escape the judgment of history."

"Today's decision will not end the debate over the government's use of the 'state secrets' privilege to avoid judicial scrutiny for illegal actions carried out in the name of fighting terrorism," said Steven R. Shapiro, legal director of the ACLU. "In a nation committed to

the rule of law, unlawful activity should be exposed, not hidden behind a 'state secrets' designation."

It has been more than 50 years since the Supreme Court has reviewed the use of the "state secrets" privilege. In recent years, the U.S. government has asserted state secrecy to justify the refusal to disclose information about its illegal wiretapping program, the use of torture and other breaches of domestic and international law.

"The government's continued assertion of 'state secrets' to avoid any judicial review of torture threatens the fundamental principle of separation of powers," said Steven Watt, staff attorney with the ACLU Human Rights Program. "It is disappointing that no court has fulfilled its critical constitutional function of ruling on the legality of the Bush administration's torture policies. The Supreme Court should have taken this case to affirm that victims of torture are entitled to a remedy."

More information about the case is available online at: www.aclu.org/jepesen

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