

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMIR MESHAL,

Plaintiff,

v.

CHRIS HIGGENBOTHAM, *et al.*,

Defendants.

No. 09-cv-2178 (EGS)

PLAINTIFF'S STATUS REPORT

Plaintiff submits this status report as a respectful reminder that this case awaits the Court's determination on two issues.

Plaintiff Amir Meshal seeks redress under the Fourth and Fifth Amendments to the U.S. Constitution and the Torture Victim Protection Act ("TVPA"), 28 U.S.C. § 1350 note, for gross investigative misconduct by federal law enforcement officers. In May 2010, Plaintiff Meshal filed an Amended Complaint (ECF No. 31) challenging the actions of federal law enforcement officers who coercively interrogated him using threats of torture and forced disappearance, and who caused his prolonged detention without process for more than four months and his forcible transfer from Kenya to Ethiopia (via Somalia) for additional coercive interrogations. In June 2010, Defendants moved to dismiss this action (ECF No. 33). Their motion called for a sweeping "national security" and "foreign affairs" exemption for violations of a U.S. citizen's core Fourth and Fifth Amendment rights under the guise of "special factors counseling hesitation," and sought qualified immunity on Plaintiff's claims under the Constitution and TVPA. Plaintiff Meshal opposed that motion (ECF No. 35), and Defendants replied (ECF No. 37). On July 12, 2011, this Court heard oral argument and took Defendants' motion under advisement. *See* Docket Minute Entry, July 12, 2011.

In February 2012, with this Court's permission, Plaintiff Meshal filed a Second Amended Complaint (ECF No. 51), which provided additional allegations showing that Defendants used foreign proxies to illegally detain him without process and to forcibly transfer him for the purpose of securing his confession. In March 2012, Defendants filed a supplemental brief in support of their motion to dismiss the Second Amended Complaint (ECF No. 52), and Plaintiff similarly filed a supplemental brief opposing that motion (ECF No. 53). Since then, the parties have filed notices of supplemental authority and responses thereto (ECF Nos. 54–59). The most recent was filed in December 2012, more than nine months ago (ECF No. 59).

Defendants' pending motion to dismiss the Second Amended Complaint is fully briefed. Plaintiff Meshal awaits this Court's determination on whether it recognizes a cause of action to enforce his Fourth and Fifth Amendment rights, and whether Defendants merit qualified immunity from his constitutional and TVPA claims.

Plaintiff respectfully observes that memories will fade, and facts will become harder to obtain, as additional time passes since Plaintiff was mistreated by U.S. government agents more than six years ago.

Respectfully submitted,

/s/ Nusrat J. Choudhury

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