

Yemeni Drone Strike Victims' Families Sue US Gov't

By Emily Field

Law360, New York (June 8, 2015, 2:14 PM EDT) -- The families of a Yemeni cleric and a policeman killed in a 2012 U.S. drone strike hit the Obama administration on Sunday with a suit in D.C. federal court, seeking a declaration that the strike violated both U.S. and international law.

Faisal bin Ali Jaber — whose brother-in-law, Imam Salem bin Ali Jaber, and nephew, police officer Waleed bin Ali Jaber, were killed in the strike — says the U.S. government has refused to officially acknowledge or apologize for their deaths. Salem, who had preached against al-Qaida days before his death, and Waleed, one of two policemen in a small village in eastern Yemen, were innocent victims of a strike that also killed three unknown youths, Ali Jaber claimed in the suit.

Ali Jaber's suit on behalf of the men's families does not seek monetary compensation, but rather a declaration from the court that the lethal drone strike violated the Torture Victim Prevention Act's ban on extrajudicial killings, as well as international law.

Citing a recent public apology by President Barack Obama for the deaths of an Italian citizen and an American — al-Qaida hostages who were mistakenly hit in a Pakistan drone strike — Ali Jaber seeks a similar acknowledgement.

"There is a simple question at the heart of this claim," Jaber said. "The president has now admitted to killing innocent Americans and Italians with drones; why are the bereaved families of innocent Yemenis less entitled to the truth?"

On Aug. 29, 2012, a U.S. drone fired missiles near a mosque in Khashamir, Yemen, killing Salem and Waleed, as well as three young men who had come to the village to speak with Salem about his recent sermon denouncing al-Qaida, according to the suit.

Those three men, strangers in the village, seem to have been the apparent targets of the drone strike, according to the suit.



Plaintiff Faisal bin Ali Jaber wears an anti-drone T-shirt at a 2014 event in Yemen. (Credit: AP)

Jaber said that, while it seems unlikely they were high-ranking members of a terrorist group given that they wanted to talk to Salem about his sermon, drone operators must have been tracking them long before they arrived in the village.

“Salem’s and Waleed’s deaths, both avoidable, are part of a broader picture of willful official blindness to unnecessary innocent civilian death that pervades the U.S. drone program,” Ali Jaber said.

The strike has also undermined U.S. security, Jaber said, because since the strike, local clerics have grown fearful of speaking out against al-Qaida as they did previously, fearing that they would endanger their communities.

“Salem’s anti-al-Qaida initiative thus died with him,” Jaber said.

Within a matter of hours after the strike, Salem and Waleed’s families realized that government officials knew they had made a mistake, according to the suit.

A Yemeni official called the family that evening, but while he gave personal condolences for the deaths, he offered no official acknowledgment or redress, Jaber said.

In 2013, Jaber traveled to the U.S. and met with members of the U.S. House of Representatives and the Senate, as well as representatives from the National Security Council, according to the suit.

The officials gave personal condolences as well, behind closed doors, but didn’t give an explanation for the attack or officially acknowledge that a U.S. drone had killed Salem and Waleed, Jaber said.

After he returned to his country, Jaber said that the Yemeni government gave the families the equivalent of \$55,000 in Yemeni currency.

There was also a second, unofficial amount of money given to the families of \$100,000 in sequentially marked, freshly printed U.S. currency, Jaber said. The money came from a Yemeni security official, who indicated that it came from the U.S., but refused to provide any further information or documentation, according to Jaber.

President Obama and CIA Director John Brennan have publicly emphasized the need for transparency in U.S. drone operations, even though the administration has kept mum about the deaths of Salem and Waleed, Jaber said.

“The drone strike that killed Salem and Waleed bin Ali Jaber was taken in circumstances entirely inconsistent both with how the president and others describe U.S. drone operations, and with U.S. and international law,” Robert Palmer of McKool Smith PC said in a statement. “There was no ‘imminent risk’ to U.S. personnel or interests, and an unmistakable probability of needless civilian casualties was disregarded.”

“As the president himself has acknowledged, the United States has an obligation to face its drone mistakes honestly, and innocent drone victims and their families, like these plaintiffs, are entitled to that honesty from the United States,” Palmer said.

The White House didn't immediately respond to a request for comment on Monday.

Jaber is represented by Robert Palmer, Caroline Walters, Lee Potts, Brent N. Rushforth and Tiffany C. Heavlin of McKool Smith PC and Cori Crider, Jennifer Gibson and Alka Pradhan of U.K. non-profit Reprieve.

Counsel information for the government wasn't immediately available on Monday.

The case is Jaber et al. v. United States et al., case number 1:15-cv-00840, in the U.S. District Court for the District of Columbia.

--Editing by Philip Shea.

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