

U.S. to Pay \$1.2 Million to 5 Detainees Over Abuse Lawsuit

By NINA BERNSTEIN

The federal government is paying \$1.2 million to settle five cases of five Muslim immigrants who had been held in the Brooklyn jail after 9/11 when hundreds of noncitizens were rounded up and held for months before being cleared of links to terrorism and deported.

The five were part of a larger lawsuit, *Turkmen v. Ashcroft*, which will continue to press the argument that the roundups and physical abuse they say they suffered were unconstitutional. The government admits no liability or fault under the terms of the settlements, filed late Monday in United States District Court in Brooklyn. Charles S. Miller, a spokesman for the Justice Department, said the government would not comment.

But Rachel Meeropol, a lawyer for the Center for Constitutional Rights, which represents the detainees, said the amount the government is willing to pay speaks

"I believe a settlement of this size is a deterrent to the United States from ever again rounding up innocent noncitizens based only on suspicion about their race and religion," Ms. Meeropol said. "These were guys called terrorists and treated as terrorists, shoved against the blood-spattered picture of the American flag and told, you're never getting out of here alive. And it's a long way from that to where they are now."

Yet in a telephone interview from Alexandria, Egypt, one of the five Muslims, Yasser Ebrahim, 37, said the settlement was a reluctant compromise for plaintiffs who had become increasingly frustrated by seven years of motions, cross-appals and delays in the case. His payment — \$356,250, of which he will receive \$270,000 after legal expenses are subtracted — is the highest of the five because he was in maximum security detention the longest, for more than eight months with-

out charges, but on the condition that they be in the constant custody of federal marshals. Fearful but determined, Mr. Ebrahim said at the time, "I have faith in the system."

Later that year, a federal judge in Brooklyn dismissed several of the lawsuit's key claims, ruling that the government had wide latitude under immigration law to detain noncitizens on the basis of religion, race or national origin, and to hold them indefinitely without explanation. The judge, John Gleeson, allowed the lawsuit to continue on other claims, however, including the argument that the conditions of confinement were abusive and unconstitutional. Both sides appealed.

The Second Circuit Court of Appeals, which heard oral arguments in the case last February, has not issued a decision.

In May, in a lawsuit involving similar claims, the United States Supreme Court ruled 5 to 4 that Pakistani Muslim who was arrested after the Sept. 11 attacks could not sue John Ashcroft, the former attorney general, and Robert S. Mueller III, the director of the Federal Bureau of Investigation, because he failed at a preliminary stage to allege a plausible link between the officials and the abuses he said he had suffered in the Brooklyn jail.

Legal advocates said that decision would make it very hard in the future to hold high government officials accountable for discriminatory practices. But it did not affect the federal tort claims that were the basis of the lawsuit. Mr. Meeropol said the cause of the inspector general's investigation, and information collected in discovery, she added, "the government faced a lot of liability for those claims."

The plaintiffs, whose claims were settled include another Egyptian living in Alexandria and two natives of Pakistan, one who now lives in France, and the other, a physician, in Toronto. Two other plaintiffs, Ibrahim Turkmen and Akhil Sachdeva, who had been held in the Passaic

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County jail, remain in the suit. An amended complaint filed on Monday adds five new plaintiffs.

A settlement over claims of beatings in a Brooklyn center after a post-9/11 roundup.

