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## Judge Rejects Blackwater Attempt to Dismiss Cases Filed by Iraqi Victims

A federal judge has rejected a series of arguments by lawyers for the private military contractor Blackwater who were seeking to dismiss five war crimes cases brought by Iraqi victims against the company and its owner, Erik Prince. We speak to award-winning investigative journalist and *Democracy Now!* correspondent, Jeremy Scahill, author of *Blackwater: The Rise of the World's Most Powerful Mercenary Army*. [includes rush transcript]



Guest:

**Jeremy Scahill**, award-winning investigative journalist and *Democracy Now!* correspondent. He is author of the international bestseller, *Blackwater: The Rise of the World's Most Powerful Mercenary Army*. He is a fellow at the Nation Institute. His writing is also available at [RebelReports.com](http://RebelReports.com).

### RUSH TRANSCRIPT

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**AMY GOODMAN:** We're going to talk about Sudan in a minute, but right now we turn to a major decision here in the United States.

I'm Amy Goodman, with Juan Gonzalez. Juan?

**JUAN GONZALEZ:** Well, a federal judge has rejected a series of arguments by lawyers for the private military contractor Blackwater who were seeking to dismiss five war crimes cases brought by Iraqi victims against the company and its owner, Erik Prince. At the same time, the judge ruled that lawyers for the Iraqi plaintiffs need to amend and re-file their cases to provide more specific details on the alleged crimes before a decision can be made on whether the lawsuits will proceed.

Susan Burke, the lead attorney for the Iraqi victims, told *The Nation* magazine she was "very pleased with the ruling." While Blackwater's spokesperson, Stacy DeLuke said, quote, "We are confident that [the plaintiffs] will not be able to meet the high standard specified in [the judge's] opinion."

**AMY GOODMAN:** For more, we're joined by *Democracy Now!* video stream by award-winning investigative journalist and *Democracy Now!* correspondent, Jeremy Scahill, author of the international bestseller *Blackwater: The Rise of the World's Most Powerful Mercenary Army*. His article on the ruling is available online at [TheNation.com](#).

Jeremy, welcome to *Democracy Now!* It's being played by the mainstream media as a huge defeat for those who are taking on Blackwater, but you have a very different take. Explain.

**JEREMY SCAHILL:** Well, I mean, when I got up yesterday morning and saw all these headlines from the Associated Press and other media outlets saying that a federal judge had tossed out all of the lawsuits against Blackwater, I was actually quite stunned. I mean, that would have been a devastating development for the Iraqi victims of the company. But then I actually got the fifty-six-page ruling from Judge T.S. Ellis, who, by the way, is a Reagan appointee, and I read it. And actually, what you see in this document is that it's a very well-thought-out legal argument by Judge Ellis, where he's essentially saying to Blackwater, "Your argument that you can't be sued as a private company under the Alien Tort Statute is false. Your argument that private individuals or companies cannot commit war crimes is false."

**AMY GOODMAN:** Whoops. Looks like we just lost Jeremy. Jeremy is speaking to us by video stream. We're going to try to get him back on, and we'll try to get him on the phone. But right now—we'll do that for the end of the show—we will turn to our next guest. That, consider just a tease for the rest of that subject.

[Sudan segment]

**AMY GOODMAN:** We go back right now to Jeremy Scahill to try to complete that conversation on the issue of a federal judge rejecting a series of arguments by lawyers for the private military contractor Blackwater, who were seeking to dismiss five war crimes cases brought by Iraqi victims against the company and its owner, Erik Prince.

Jeremy, we've got you back on the *Democracy Now!* video stream. Very quickly, explain the significance of the case.

**JEREMY SCAHILL:** Well, I mean, basically, these are five cases brought by Iraqi civilians that were allegedly wounded by Blackwater and the families of Iraqis that were killed by Blackwater. These are very high-stakes cases. Blackwater is fighting passionately to have them thrown out. They've made arguments that they, as a company, can't be sued, that it would violate the rights of the President of United States to make battlefield decisions, and if Blackwater was prosecuted, that would infringe upon the President's rights. They've said that they, as a company, can't be sued for war crimes, because war crimes can only be committed by state actors or nations. And what we saw here is that this conservative Judge Ellis said to Blackwater, "No, none of that is valid."

What he did do, though, is he referenced a Supreme Court decision in May, *Ashcroft v. Iqbal*, which really reversed decades of case law and made it very, very difficult, more difficult, for plaintiffs to have their cases moved to the trial phase. In other words, the bar was set much higher to proceed to trial. So what the judge said to Susan Burke and the Center for Constitutional Rights, the lawyers representing these Iraqis, "You need to re-file your cases with more evidence, and then we'll take it from there."

So, while it's being portrayed by the corporate media as a judge tossing out these cases, that quite clearly is not the case. This was actually a pretty significant defeat for Blackwater and a victory not only for the Iraqis in this case, but also for those lawyers from the Center for Constitutional Rights that have spent decades trying to apply US laws to crimes committed abroad. Blackwater remains in very, very hot water, not only because of this case, but also the US Justice Department is going to begin its prosecution of five Blackwater operatives for manslaughter charges relating to the Nisoor Square massacre in September of '07. This is very high-stakes stuff, and the corporate media got it basically absolutely wrong.

**AMY GOODMAN:** Jeremy Scahill, we'll leave it there. I want to thank you for being with us, award-winning journalist.



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