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On Monday, a federal appeals court refused to dismiss a lawsuit filed by two U.S. citizens against former Defense Secretary Donald Rumsfeld and unnamed others for developing, authorizing and using harsh interrogation techniques against detainees in Iraq. Donald Vance and Nathan Ertel were working for a private U.S. government contractor, Shield Group Security, in 2006 when they witnessed the sale of U.S. government weapons to Iraqi rebel groups for money and alcohol. After they became FBI informants and collaborated with an investigation into their employer, the company revoked their credentials for entering Iraq's so-called Green Zone, effectively barring them from the safest part of the country. Shortly afterward, they were arrested and detained by U.S. troops, moved to the U.S.-run prison at Camp Cropper, and subjected to extreme sleep deprivation, interrogated for hours at a time, kept in a very cold cell, and denied food and water for long periods. They were eventually released and never charged with a crime. For more on his story, we speak with Donald Vance, a U.S. Navy veteran, and with Andrea Prasow, the senior counsel in the Terrorism and Counterterrorism Program at Human Rights Watch.

Guests:

[Donald Vance](#), a former private contractor turned whistleblower in Iraq. He was detained without charge for three months in the U.S. prison Camp Cropper in Baghdad. He is bringing a lawsuit against former U.S. Secretary of Defense Donald Rumsfeld for torture.

[Andrea Prasow](#), senior counsel in the Terrorism and Counterterrorism Program at Human Rights Watch.

AMY GOODMAN: For years, human rights groups have attempted to file a lawsuit against former Bush administration officials for their role in crafting policies that led to torture in Iraq. Well, on Monday, in a move that has shocked some in the legal community, a federal appeals court refused to dismiss a lawsuit against former Defense Secretary Donald Rumsfeld and unnamed others for developing, authorizing and using harsh interrogation techniques against prisoners in Iraq.

The details of the case may surprise you. The lawsuit was filed not by a former prisoner at Abu

Ghraib or Guantánamo, but by two American citizens who were employed in Iraq by the private U.S. government contractor Shield Group Security in 2006.

Donald Vance and Nathan Ertel say their lives took a shocking turn after they witnessed the sale of U.S government weapons to Iraqi rebel groups for money and alcohol. First they became FBI informants and collaborated with an investigation into their employer. But then the company revoked the men's credentials for entering Iraq's so-called Green Zone, effectively barring them from the safest part of the country. Shortly thereafter, they were arrested and detained by U.S. troops.

The men were moved to Camp Cropper, subjected to physical and psychological torture, they say, at the hands of U.S. forces. Vance was held for three months, Ertel for six weeks. The two men were subjected to extreme sleep deprivation, interrogated for hours at a time, kept in a very cold cell, denied food and water for long periods. They were eventually released, never charged with a crime.

Well, Donald Vance joins us now from Chicago to talk about his ordeal and the case he's filed against Donald Rumsfeld that can now move forward after Monday's federal court ruling. And we're joined in Washington by Andrea Prasow. She's senior counsel in Terrorism and Counterterrorism Program at Human Rights Watch.

We welcome you both to *Democracy Now!* Let us begin with Donald Vance. Tell us, when did you go to Iraq? You were an Army veteran already?

DONALD VANCE: I was a Navy veteran, yes.

AMY GOODMAN: So, when were you in Iraq?

DONALD VANCE: I had began contracting in Iraq in mid-2003.

AMY GOODMAN: And tell us who you were working for and how long you were there before you were arrested.

DONALD VANCE: In my early years of contracting, I was working—actually working for several American companies. I began working for an Iraqi-owned company in 2005, where upon my initial few months of working for those companies, started to notice some pretty frightening and alarming illegal activity.

AMY GOODMAN: What did you notice?

DONALD VANCE: It ranged from bribery, theft, weapons dealing. It was a gamut of illegal activities.

AMY GOODMAN: So what did you do about it?

DONALD VANCE: In 2005, late 2005, I approached my Chicago branch of the FBI on a return home, and I began to explain to the FBI what I was seeing and what I was experiencing. They, of course, took an immediate interest, asked me to become a unpaid informant. And I agreed.

AMY GOODMAN: And so, you went back to Iraq, and how did you communicate with the FBI? And what did you tell them?

DONALD VANCE: I stayed in almost daily contact with the FBI via phone, a satellite phone, and email. We had set up a mechanism where we were able to relay information to each other. I would say, yeah, I was pretty much in a daily contact with the FBI in Chicago.

AMY GOODMAN: And so, what then happened to you in 2006?

DONALD VANCE: In April of 2006, the information that we're getting—we're still not exactly sure what happened. But essentially, our cover was blown. Myself, my cover, and Nathan Ertel's cover had been blown. And the company tried to ensure that we wouldn't be able to tell our story and tried to kill us.

AMY GOODMAN: How did they try to kill you?

DONALD VANCE: Well, first they were going to attempt to have us kidnapped, where we would just, of course, just disappear and ultimately meet our deaths. But, of course, that was not able to—they were not able to do that. A U.S. military special forces team secured our rescue in Baghdad. As I said, this was April of 2006. Upon our rescue, we were taken to the U.S. embassy in Baghdad, Iraq, and we began to explain who we were and basically our background story to officials in Baghdad. And when they start to—when they began to realize that we were informants to the Federal Bureau of Investigation, the tempo quickly changed to a hostile one.

AMY GOODMAN: And so, talk about who arrested you first, what happened to you and Ertel.

DONALD VANCE: Within 24 hours of our rescue, we were turned over to the U.S. military. The U.S. military sent us to a sort of temporary detention facility in Baghdad, in the international zone. We were there for a number of days, where we were then transported to Camp Cropper, which is just outside of the Baghdad International Airport. And that's where I was detained for 97 days.

AMY GOODMAN: And what happened to you there, Donald Vance?

DONALD VANCE: During my detainment, myself and Nathan Ertel, we endured the authorized enhanced interrogation techniques that the military currently employs. It ranges from sleep deprivation, food manipulation, sensory deprivation, sensory overload, a technique called "walling." And all of their questions surrounded on topics like, "What did you tell the

FBI

? How long have you been doing this? Why did you do this?" And, of course, I answered all of their questions, but I was not seeing any end to my detention.

AMY GOODMAN: Donald, who was questioning you? Who was doing this to you?

DONALD VANCE: We don't know who these—the actual interrogators were. Any given day, you were—I was possibly interrogated by a person in a military-style uniform. The very next day or maybe even later that day, I was interrogated by someone wearing a civilian attire. They never identify themselves. They never identify an agency or rank. You don't see—they don't show you identification.

AMY GOODMAN: Were they American?

DONALD VANCE: To the best of my knowledge. I'm not going to speculate on their nationalities, but I would say yes.

AMY GOODMAN: You said you were subjected to walling? What is walling?

DONALD VANCE: Walling is basically where they place your heels to the back of a wall, and you're basically just slammed repeatedly into the wall. Frequently, on my way to an interrogation, I'm hooded, and I have earmuffs placed over my ears, so I can't see or hear anything. And I've got a guard on each side of my right or left, and I'm being walked to my interrogation. And you're basically just walked repeatedly into a wall, before you enter the interrogation room, where then you're sat down and your interrogation begins.

AMY GOODMAN: When were you finally released?

DONALD VANCE: I was released in August of '06. Suddenly, one day, a guard comes to my cell, tells me—hands me a set of civilian clothing, tells me to get dressed. I'm led to another

interrogation room, but this one of course is different, because now I'm wearing civilian clothing. And I'm given a sort of a questionnaire. "When you get home, what are your intentions? Are you going to write a book?" You know, they kind of made a little joking comment, if I was going to write a book, if I was going to see—speak to an attorney, the press, anything like this. And of course, I'm saying no to all of their questions, all of these types of questions. And I'm put into a black SUV and driven to Baghdad International Airport. The door opens. I'm handed a plane ticket and my passport. And they drive away.

AMY GOODMAN: Donald Vance, you've just described an incredible story of what took place in 2006. And now you filed suit against Donald Rumsfeld, the former secretary of defense. Why Donald Rumsfeld?

DONALD VANCE: Well, at this time, we're only able to identify Donald Rumsfeld, because of, you know, of course, his position at the time. We were not able to identify the actual interrogators, because, as I said, we were being interrogated in what they call a "sterilized environment." There's no names, ranks or insignias of the people that are interrogating you. So, until a court is able to give us discovery to find out who these people are, currently Donald Rumsfeld is our only named defendant.

AMY GOODMAN: We're going to break, then come back. Donald Vance is a Navy veteran, a former military contractor now turned whistleblower, detained at U.S. military base Camp Cropper for more than three months, now is suing Donald Rumsfeld, who was the secretary of defense at the time. When we come back, we'll also be joined by a senior counsel at Human Rights Watch on the significance of a federal court allowing this lawsuit to move forward. Stay with us.

[break]

AMY GOODMAN: We continue on this conversation with an American contractor, a Navy veteran, who was held by U.S. military under—at Camp Cropper in Iraq for more than three months. There, he was subjected to extreme cold, to interrogation, to what the U.S. military has called "enhanced interrogation techniques." Donald Vance, our guest. Also, Andrea Prasow, senior counsel in the Terrorism and Counterterrorism Program at Human Rights Watch.

Talk about the significance, Andrea Prasow, of this case and the fact that a federal court on Monday allowed this case to move forward, suing Donald Rumsfeld.

ANDREA PRASOW: I do think this case is incredibly significant, because the allegations that have been set forward in this complaint by Mr. Vance and his co-plaintiff really demonstrate the significant role that former Secretary of Defense Donald Rumsfeld played in personally authorizing the torture not only of the plaintiffs, as they allege, but of hundreds, if not thousands, of other detainees in Iraq, Afghanistan and Guantánamo.

AMY GOODMAN: The Obama administration has declared waterboarding a form of torture and banned its use since taking office, but has not prosecuted any Bush administration officials to date. Shortly after he took office, Obama was asked if he supported prosecutions for Bush-era torture.

PRESIDENT BARACK OBAMA: Nobody is above the law. And if there are clear instances of wrongdoing, that people should be prosecuted, just like any ordinary citizen. But that generally speaking, I am more interested in looking forward than I am in looking backwards.

AMY GOODMAN: That was President Obama in 2009. Andrea Prasow, your comments on looking forward, not backwards? Also, I want to ask Donald Vance that same question.

ANDREA PRASOW: You know, I think it's impossible look forward without first looking backwards and trying to understand the full scope of what did happen and why it happened. And until that happens, there's no guarantee that it won't happen again.

AMY GOODMAN: Attorneys for Donald Rumsfeld have harshly criticized the court ruling. This is the statement from attorney David Rivkin, quote: "Having judges second-guess the decisions made by the armed forces halfway around the world is no way to wage a war. It saps the effectiveness of the military, puts American soldiers at risk, and shackles federal officials who have a constitutional duty to protect America." Andrea Prasow?

ANDREA PRASOW: Torturing detainees is no way to wage a war, either. And the idea that the fact that the U.S. feels it's engaged in a war should insulate it from liability for torturing people, I think, is really outrageous. That's not the way the constitutional structure suggests that people should be held accountable. It's not what international law says. The law is very clear. The U.S. is a signatory to the Convention Against Torture, and that means it has an obligation to investigate claims of torture and to prosecute people who it believes have committed torture.

AMY GOODMAN: Donald Vance, your response to President Obama, who said we should look forward, not backward—not referring directly to your case—and also, what Rumsfeld's lawyer has said?

DONALD VANCE: I'm not going to comment on Mr. Rivkin's comments; I'm not an expert in military matters. But as far as Mr. Obama's, President Obama's comments that he's not prepared to look back and he just wants to look forward, what I have to say to that is, we have absolutely no alternative. I'm under the firm, absolute firm belief that these programs are still ongoing.

AMY GOODMAN: Why do you believe that, Donald?

DONALD VANCE: As I've previously said, I have enough evidence, of what I've heard and have seen, that in Camp Cropper, to this very day, there could quite possibly be Americans being detained. And I also believe that there—this has actually happened to other Americans, who just, quite frankly, just haven't come forward yet.

AMY GOODMAN: Why do you believe Americans are being detained now at Camp Cropper?

DONALD VANCE: You know, the guards and the interrogators—you know, Camp Cropper is not a very large compound. So they're used to interacting with Iraqis who have a very rudimentary understanding of English, whereas myself and my colleague, English is our first language, so we can hear them in the hallways saying things, or you might hear the interrogation room next to you. And they speak quite frankly to each other about what's going on tomorrow, you know, what's the current ongoings on at the camp. And you hear some pretty frightening things happening. And now that I've come home and we've filed this lawsuit, and now we've had a John Doe come forward, and he has also now filed a lawsuit, it just once again

supports my theory that there are other Americans this has happened to.

AMY GOODMAN: Donald, what's the long-term—

DONALD VANCE: —and just haven't come forward yet.

AMY GOODMAN: What's the long-term effects of what happened to you in Iraq?

DONALD VANCE: To this day, I haven't sought any professional care. I don't know if I'm experiencing any sort of residual effects. I'm not a doctor. I want to say that I am—I have sort of bouts of stress because of what happened to me. But I think it's just a choice that I've made to not speak to someone. I try not to take myself to that place anymore.

AMY GOODMAN: Andrea Prasow, can you talk about the significance of the decision to allow the case to move forward one week after another judge ruled in another lawsuit that it could move forward against Donald Rumsfeld? Is there a shift taking place?

ANDREA PRASOW: I hope so. Now, the reality is, both of these cases that are proceeding have been brought by U.S. citizens. And the fact that they were brought by U.S. citizens was considered quite important to both courts. Now, I don't think that's entirely relevant. But at this point, it is only cases by U.S. citizens that are proceeding.

But, you know, in Mr. Vance's case, the Seventh Circuit was quite clear that in examining whether there was a violation of his constitutional rights, the standard was whether the conduct shocks the conscience. And I think it's clear that the torture of a U.S. citizen by the U.S. military shocks the conscience of the ordinary person. But I hope that the torture of a non-U.S. citizen by the U.S. military also shocks the conscience of an ordinary American and that those cases at some point will be allowed to proceed.

AMY GOODMAN: Well, I want to thank you both very much for being with us, with a final

question to Andrea Prasow: what message do you think this sends to whistleblowers in Iraq, in Afghanistan, around the world today?

ANDREA PRASOW: That's a difficult question. I certainly hope that it doesn't deter anyone from coming forward with allegations of misconduct or illegal behavior. And I do think that the President's rejection of torture and his executive order that closed the CIA prisons as soon as he took office, I think those were very incredibly important statements about U.S. policy going forward. But as I said before, the U.S. can't move forward completely without looking backwards, without examining what happened in the past, why it happened, and holding people accountable.

AMY GOODMAN: And Donald Vance, would you recommend to other whistleblowers that they should move forward, that they should blow the whistle, as you did, considering what happened to you, even though, before you were arrested, you were in daily touch with the FBI ?

DONALD VANCE: Absolutely. I am imploring any civilian operating in any war zone or anywhere in the world to—absolutely, if you're seeing something illegal happening, please talk to the authorities and come forward. I mean, we don't have a long history of doing our very best at protecting our whistleblowers, but to this very day, I'm actually glad that I—what I did—of what I did. And I would do it again.

AMY GOODMAN: Donald Vance, I want to thank you for being with us, Navy vet, contractor turned whistleblower, detained without charge, suing Donald Rumsfeld. The case is moving forward. Andrea Prasow, senior counsel in Terrorism and Counterterrorism Program at Human Rights Watch, thanks for being with us.