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Supreme Court Rules Against Sailors Injured in Cole Attack



By Adam Liptak

WASHINGTON — The Supreme Court on Tuesday **ruled against sailors injured in the 2000 bombing of the destroyer Cole in Yemen by Qaeda operatives**, saying the sailors had failed to serve their legal papers properly in a lawsuit against the government of Sudan. The decision threw out a \$314 million default judgment, though the court said the sailors should be able to pursue further litigation.

The attack **killed 17 American sailors** and injured dozens more. Fifteen of the injured sailors and three of their spouses sued Sudan by delivering a copy of their suit to its embassy in Washington. The suit said Sudan had harbored and supported Osama bin Laden and other members of Al Qaeda in the years before the bombing.

The question for the justices was whether the suit had been properly served. A federal law allows service against foreign governments “by any form of mail requiring a signed

receipt, to be addressed and dispatched” to “the head of the ministry of foreign affairs of the foreign state concerned.”

Justice Samuel A. Alito Jr., writing for eight members of the court, said the language of the statute required sending the legal papers to the foreign ministry in Sudan rather than Sudan’s embassy in Washington.

“The most natural reading of this language is that service must be mailed directly to the foreign minister’s office in the foreign state,” he wrote. “Although this is not, we grant, the only plausible reading of the statutory text, it is the most natural one.”

“A foreign nation’s embassy in the United States is neither the residence nor the usual place of business of that nation’s foreign minister and is not a place where the minister can customarily be found,” Justice Alito wrote.

That was the position pressed by the Trump administration, which filed a [friend-of-the-court brief](#) supporting Sudan.

On the one hand, the brief said, “the United States deeply sympathizes with the extraordinary injuries suffered by respondents, and it condemns in the strongest possible terms the terrorist acts that caused those injuries.”

On the other hand, the brief said, “the principle of mission inviolability” bars serving lawsuits through embassies. For its part, the brief said, “the United States routinely refuses to recognize the propriety of service through mail or personal delivery by a private party or foreign court to a United States embassy.”

Justice Alito wrote that the court’s ruling “is not the end of the road,” as the sailors may still serve their suit on the foreign ministry.

“We understand respondents’ exasperation and recognize that enforcing compliance with” the statute on service of process “may seem like an empty formality in this particular case, which involves highly publicized litigation of which the government of Sudan may have been aware prior to entry of default judgment,” Justice Alito wrote. “But there are circumstances in which the rule of law demands adherence to strict requirements even when the equities of a particular case may seem to point in the opposite direction.”

Justice Clarence Thomas dissented. “Given the unique role that embassies play in facilitating communications between states,” he wrote, “a foreign state’s embassy in Washington, D.C., is, absent an indication to the contrary, a place where a U.S. litigant can serve the state’s foreign minister.”