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## MAY 29, 2013

### Court: American Jailed in Cuba Can't Sue U.S. Government

*Updated at 12:35 p.m.*

An American citizen jailed in Cuba for his work as a federal subcontractor can't sue the U. S. government for negligence, a Washington federal judge has **ruled**.

Alan Gross was convicted by Cuban authorities in March 2011 of committing acts against the government and was sentenced to serve 15 years in prison. Diplomatic efforts to free Gross failed. In November, Gross and his wife sued the U.S. government and the private contractor that hired him, claiming they failed to disclose the riskiness of his work or to train him to minimize those risks.

Gross agreed to a confidential settlement with the private contractor, Developer Alternatives Inc., in May. Yesterday, U.S. District Judge James Boasberg dismissed Gross' claims against the federal government, finding the Federal Tort Claims Act protected the United States against claims "arising in a foreign country."

A lead attorney for the Gross family, Barry Buchman of Gilbert LLP, said via email they planned to appeal. "We are disappointed with the Court's ruling," he said. "This is an example of the exception swallowing the rule."

Representatives of the U.S. Department of Justice and U.S. Agency for International Development did not immediately return requests for comment.

Developer Alternatives Inc., at the U.S. Agency for International Development's request, sought proposals for projects to expand internet access in Cuba. Gross successfully submitted a bid to train Jewish communities in Cuba on using the internet. He visited Cuba four times in 2009 and, according to his complaint, wrote memos each time he returned warning that his work was risky.

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At the end of his fifth trip to Cuba in early December 2009, Gross was arrested and held as a political prisoner. According to court documents, he was interrogated and psychologically abused. A Cuban court found him guilty of participating in a "subversive project" to use communications technology to undermine the Cuban government.

In his lawsuit, Gross accused Developer Alternatives and USAID of ignoring his warnings and failing to prepare him for the risks he was taking. Gross offered several arguments for why the foreign country exception to the Federal Tort Claims Act shouldn't apply, including that USAID's alleged negligence took place in the United States and that the law's exceptions should be viewed as narrowly as possible.

Boasberg rejected Gross' arguments. The exception applied, Boasberg said, because Gross' injuries stemmed from being jailed in Cuba.

"As the background section of this Opinion hopefully makes clear, the Court is in no way condoning what happened to Gross or implying he is to blame," the judge wrote. "Sympathy with his plight, however, is not a basis on which to circumvent clear precedent concerning the FTCA."

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Posted by [Zoe Tillman](#) on May 29, 2013 at 12:26 PM in [Crime and Punishment](#), [Current Affairs](#), [D.C. Courts and Government](#), [Justice Department](#), [Other Courts](#), [Points of View](#), [Politics and Government](#), [Society and Culture](#), [Web/Tech](#) | [Permalink](#)  
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