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Sept. 11 Victims Not Entitled to Seize Afghan Central Bank Assets -U.S. Judge

By Jonathan Stempel

NEW YORK (Reuters) -A U.S. judge on Friday recommended that victims of the Sept. 11, 2001, attacks not be allowed to seize billions of dollars of assets belonging to Afghanistan's central bank to satisfy court judgments they obtained against the Taliban.

U.S. Magistrate Judge Sarah Netburn in Manhattan said Da Afghanistan Bank was immune from jurisdiction, and that allowing the seizures would effectively acknowledge the Islamist militant group as the Afghan government, something only the U.S. president can do.

"The Taliban's victims have fought for years for justice, accountability, and compensation. They are entitled to no less," Netburn wrote. "But the law limits what compensation the court may authorize and those limits put the DAB's assets beyond its authority."

Netburn's recommendation will be reviewed by U.S. District Judge George Daniels in Manhattan, who also oversees the litigation and can decide whether to accept her recommendation.

The decision is a defeat for four groups of creditors that sued a variety of defendants, including al-Qaeda, they held responsible for the Sept. 11 attacks, and obtained default judgments after the defendants failed to show up in court.

At the time of the attacks, the ruling Taliban allowed al-Qaeda to operate inside Afghanistan.

The United States ousted the Taliban and al-Qaeda in late 2001, but the Taliban returned to power a year ago when U.S. and other Western forces withdrew from the country.

Lawyers for the creditor groups did not immediately respond to requests for comment.

The groups have been trying to tap into some of the \$7 billion of Afghan central bank funds that are frozen at the Federal Reserve Bank in New York.

In an executive order in February, U.S. President Joe Biden ordered \$3.5 billion of that sum set aside "for the benefit of the Afghan people," leaving victims to pursue the remainder in court.

The U.S. government took no position at the time on whether the creditor groups were entitled to recover funds under the Terrorist Risk Insurance Act of 2002.

It urged Netburn and Daniels to view exceptions to sovereign immunity narrowly, citing the risks of interference with the president's power to conduct foreign relations, and possible challenges to American property located abroad.

Other countries hold about \$2 billion of Afghan reserves.

Shawn Van Diver, the head of #AfghanEvac, which helps evacuate and resettle Afghans, said he hoped the frozen funds could be used to help the struggling Afghan economy without enriching the Taliban.

"The judge has done the right thing here," he said.

Nearly 3,000 people died on Sept. 11, 2001, when planes were flown into New York's World Trade Center, the Pentagon in northern Virginia, and a Pennsylvania field.

U.S. sanctions ban doing financial business with the Taliban, but allow humanitarian support for the Afghan people.

(Reporting by Jonathan Stempel in New York; Additional reporting by Jonathan Landay in Washington, D.C.; Editing by Chris Reese and Grant McCool)

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